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**PIRACY IN THE HORN OF AFRICA:
A COMPARATIVE STUDY WITH SOUTHEAST ASIA**

by

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December 2009

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Maritime piracy provides unique challenges for nations that are attempting to combat it. In the 1990s, Southeast Asia was the world's number one region for piracy attacks on maritime vessels, but that statistic has since improved. In the new millennium, the Horn of Africa has eclipsed Southeast Asia to become the top region for pirate attacks. State failure in Somalia, coupled with regional economic and political weakness, has allowed piracy to thrive. Since late 2008, an international response that consists of maritime forces from around the world has been assisting the shipping industry by providing security. Thus far, this effort has had mixed success. As the rate of successful attacks has decreased, the frequency at which they occur has continued to increase. This thesis investigates the rise and fall of piracy in Southeast Asia, and compares causal factors and responses to piracy in the Horn of Africa. The purpose is to provide an analysis of lessons learned that could be applied in the Horn of Africa.

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WITH SOUTHEAST ASIA**

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Maritime piracy provides unique challenges for nations that are attempting to combat it. In the 1990s, Southeast Asia was the world's number one region for pirate attacks on maritime vessels, but that statistic has since improved. In the new millennium, the Horn of Africa has eclipsed Southeast Asia to become the top region for pirate attacks. State failure in Somalia, coupled with regional economic and political weakness, has allowed piracy to thrive. Since late 2008, an international response that consists of maritime forces from around the world has been assisting the shipping industry by providing security. Thus far, this effort has had mixed success. As the rate of successful attacks has decreased, the frequency at which they occur has continued to increase. This thesis investigates the rise and fall of piracy in Southeast Asia and compares causal factors and responses to piracy in the Horn of Africa. The purpose is to provide an analysis of lessons learned in Southeast Asia that could be applied to curtail piracy in the Horn of Africa.

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LIST OF ACRONYMS AND ABBREVIATIONS

ARF   Asian Regional Forum
ASEAN   Association of Southeast Asian Nations
ASG   Abu Sayyaf Group

CARAT   Cooperation and Readiness Afloat
CTF-151   Combined Task Force 151

EEZ   Exclusive Economic Zone
EIS   Eyes in the Sky
EU NAVFOR   European Union Naval Force
EU   European Union

GAM   Free Aceh Movement
GDP   Gross Domestic Product

HOA   Horn of Africa

IMB   International Maritime Bureau
IMO   International Maritime Organization
IRTC   Internationally Recommended Travel Corridor
ISC   Information Sharing Center
ISPS   International Ship and Port Facility Security

JCG   Japanese Coast Guard
JWC   Joint War Committee

LRADs   Long Range Acoustic Devices
MALSINDO   Malacca Strait Sea Patrols
MMEA   Malaysian Maritime Enforcement Agency
MOUs   Memorandums of Understanding
MSPA   Maritime Security Patrol Area

NATO   North Atlantic Treaty Organization

ReCAAP   Regional Cooperation Agreement on Combating Piracy and Armed Robbery in Asia
RMSI   Regional Maritime Security Initiative
RPG   Rocket Propelled Grenades

SEACAT	South East Asia Cooperation against Terrorism
STRAITREP	Mandatory Ship Reporting System in the Straits of Malacca and Singapore
TFG	Transitional Federal Government
U.S.	United States
ULCC	Ultra Large Crude Carriers
UN	United Nations
UNCLOS	United Nations Conference on the Law of the Sea
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolutions
USPACOM	United States Pacific Command
VLCC	Very Large Crude Carriers

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I.   INTRODUCTION

A.   MAJOR RESEARCH QUESTION

State failure poses unique challenges to nations combating piracy because piracy is a land-based problem whose solution can only be found on land. The topic of this research is a critical analysis of why the United States and other maritime nations have been ineffectual in their efforts to stop maritime piracy in the Horn of Africa (HOA) and the adjacent Gulf of Aden region of East Africa. The major research question asks what methods can be used and are most effective to combat piracy under conditions of state failure for the United States and other maritime nations. To answer this question, the author conducts a case study of piracy in Southeast Asia, examining causal factors that led to the rise and decline of piracy in this region and a case study of piracy in the Horn of Africa. In the conclusion, the author presents an analysis of lessons learned from both case studies to determine whether lessons can be learned from Southeast Asia and applied to the Horn of Africa.

B.   IMPORTANCE

The Horn of Africa and the Gulf of Aden are the most dangerous areas for piracy in the world. The collapse of the Somali government in 1991 and subsequent conflicts have created an environment where piracy has become a way of life for those who live along the coast of Somalia. In 2008, 815 crewmembers were taken hostage from vessels hijacked in the Gulf of Aden and off the coast of Somalia. Thus far, in 2009, 478 crewmembers have been taken hostage.[1] To address the growing threat to the region and maritime shipping, the United States and other countries have begun working together with regional partners to provide stability. Unfortunately, these efforts have remained unsuccessful. Reasons for the failures include weak governance, lack of security, geography, corruption and the application of International Law.

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[1] ICC Commercial Crime Services, "Pirate Attacks off Somalia Already Surpass 2008 Figure," May 12, 2009, http://www.icc-ccs.org (accessed June 4, 2009).

Similar to the Horn of Africa, the nature of piracy in Southeast Asia is also heavily influenced by geography, weak governance, corruption and lack of security. A decade ago, piracy surged in Southeast Asia, but has since declined sharply because of efforts by regional and extra-regional nations working together to find a common solution. As a result of the Asian financial crisis in 1997 and political instability, Indonesia suffered higher rates of piracy than its neighbors, peaking in 2000 with 119 incidents and again in 2003 with 121 reported cases.[2] In addition, the financial crisis caused the value of the Indonesian defense budget to decline by 65% from 1997 to 1998.[3] By 2004, piracy rates throughout Southeast Asia began to decline for several reasons, including individual actions taken by regional states to increase security and governance, and bilateral and multilateral measures between Straits nations and the international community.[4] The urgency of the situation makes it necessary to find ways to address the piracy problem off the coast of Somalia. What this suggests is that lessons can be learned from the actions taken by nations in Southeast Asia and the international community to curb piracy; these lessons can then be applied to the current crisis in the Horn of Africa and Gulf of Aden region.

C. PROBLEMS AND HYPOTHESES

The key issues and problems facing the United States and other maritime nations today include state failure in Somalia, limited regional and international capabilities, and regional and international cooperation.

1. State Failure

Piracy is a symptom of state failure in Somalia, which has now extended from the land to the sea. For years, warlords and extremist groups have controlled much of the country, except for small areas governed by the fledgling Transitional Federal

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[2] Graham Gerard Ong-Webb, *Piracy in Maritime Asia: Current Trends,* ed. Peter Lehr (Routledge: New York, 2007), 55.

[3] Catherine Zara Raymond, "Piracy in Southeast Asia New Trends, Issues and Responses," (working paper, Institute of Defense and Strategic Studies Singapore, 2005).

[4] Joshua Ho, "The Security of Regional Sea Lanes," working paper, *Institute of Defense and Strategic Studies Singapore* (2005).

Government. Without effective efforts by regional and international nations to invest in capacity-building programs that address the root causes of state failure in Somalia—such as poverty, lawlessness and corruption—maritime-based approaches are, at best, only temporary.

2.   Limited Capabilities

Somalia, regional, and international governments have limited capabilities to combat piracy effectively on their own, either on land or at sea. For example, the Somali Coast Guard has three aging gunboats but lacks funding and training. Operated by a private security company in the Puntland region of Somalia, the effort has no noticeable effect.[5]   Other attempts have been made to create a coastal patrol force, but these have failed because of funding, corruption, or both.

U.S. and coalition forces have limited numbers of ships and aircraft to patrol this vast region, including over 2.5 million square miles of ocean. Without more vessels and aircraft, pirates continue to have the upper hand in finding and acquiring ships before international forces can intervene.

3.   International Cooperation

The U.S. and North Atlantic Treaty Organization (NATO)-led missions are law enforcement operations aimed at deterring and detaining suspected pirates. The U.S. and U.K. currently hold agreements with Kenya that allow for the prosecution of pirates in Kenyan courts of law, in exchange for technical assistance and funding. Unfortunately, few nations are willing or have the capabilities to assist in the prosecution of pirates. In addition, coalition nations and those assisting have separate chains of command responsible to their government's national strategies and priorities. This can result in pirates being released, rather than being incarcerated for their crimes, strengthening pirates' resolve.

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[5] Steve Mbongo, "Somalia Seeks Aid to Set up Strong Coast Guard," *Business Daily*, May 20, 2009, http://www.businessdailyafrica.com/-/539444/600188/-/rv1gi2/-/index.html (accessed June 5, 2009).

The preliminary conclusion is that, in the absence of a stable Somali government, combating piracy at sea is a temporary measure at best. Interdicting pirates before they leave land provides a promising solution, but one that is unable to be realized because regional and international governments are unable or unwilling to absorb the financial cost of training officers and maintaining the infrastructure. International naval support will continue for the foreseeable future, but is costly to maintain. The size of the area that coalition forces patrol, and the numbers of vessels able to participate, ensures that pirates operating from shore—using small boats supported by mother ships to increase range—have the advantage.

In the final analysis, Somali pirates in small fiberglass boats continue to hold some of the largest and most sophisticated navies in the world at bay until solutions can be found.

D.   LITERATURE REVIEW

The threat of piracy in the Horn of Africa poses a significant problem to regional and international governments who use this important waterway. Over 20,000 ships a year pass through this region, including 12% of the world's oil supply.[6] Severe poverty and lawlessness create safe havens from which pirates operate without fear of retribution. Hefty ransoms paid by insurance companies, eager to secure the safety of their crews and cargo, continue the cycle of recruitment and violence, ensuring a never-ending supply of recruits.

Maritime piracy is an endeavor that has been on the margins of society for as long as ships have been going to sea. Under international law, piracy is one of seven crimes considered so notorious that it is considered a crime against all nations and forms the basis for states to intervene.[7] The fact that the United States has taken a lead role in the interdiction of seaborne piracy should come as no surprise. The U.S.'s economic

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[6] James Kraska and Brian Wilson, "Fighting Pirates: The Pen and the Sword," *World Policy Journal* 25, no. 4 (Winter 2008/2009): 41–52.

[7] William R. Slomanson, *Fundamental Perspectives on International Law California* (Belmont, CA: Wadworth Thompson Learning, 2007), 245.

strength, and that of many of its allies, depends upon the U.S.'s ability to maintain freedom of the seas against those who wish to deny the U.S. access. Understanding the threat piracy poses for security in Southeast Asia and the Horn of Africa requires knowledge of the different types of piracy, the responses by regional and extra-regional nations and the outcomes of those responses.

1.   Typology

Pirates are criminals and, as such, use various means to achieve their goals. In 1993, the International Maritime Organization (IMO) conducted a study that defined a pirate typology applicable to all locations. These include: 1) low-level armed robbery: opportunistic attacks mounted close to land, 2) medium-level armed assault and robbery: piracy carried out further from shore, often in narrow sea-lanes, with a high probability that violence is used, and 3) major criminal attack: well-resourced and smoothly run operations in which violence is commonly employed, not only to steal money or cargo from a ship, but to take over the ship itself.[8] Rupert Burns expanded on this further by providing a more in-depth description of where attacks occur in relation to the vessel's location. He expands the typology to include more detailed definitions: 1) simple robbery of ships stores and valuables from vessels at anchor/moored at a buoy/berthed alongside, 2) armed/violent robbery against vessels at anchor/moored at a buoy/berthed alongside, 3) armed/violent robbery against vessels underway or making way, 4) armed attacks against ships underway or making for purposes of hostage taking and ransom demand, and 5) deliberate vessel hijacking and devolution "Phantom ship" operations.[9]

The waters of Southeast Asia, which border the countries of Indonesia, Singapore and Malaysia, are congested and narrow, providing plenty of locations and opportunities for criminals to strike. Several major sea-lanes in this region include the Strait of

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[8] Martin N. Murphy, *Contemporary Piracy and Maritime Terrorism: The Threat to International Security* (New York, New York: Routledge, 2007), 31.

[9] Rupert Herbert Burns, "Compound Piracy at Sea in the Early Twenty-First Century: A Tactical to Operational-Level Perspective on Contemporary, Multiphase Piratical Methodology," in *Violence at Sea: Piracy in the Age of Global Terrorism*, ed. Peter Lehr (Routledge: New York, 2007), 98.

Malacca, measuring over 600 miles long. This strait provides the link between the Indian Ocean and the South China Sea, and other important waterways, such as the Singapore, Lombok and the Sunda Straits.

The members of pirate organizations who carry out attacks in this region include fisherman, common criminals, and even members of maritime security forces whose job is to protect shipping.[10] Young and Valencia describe types of piracy in Southeast Asia, which encompass a "wide spectrum of criminal behavior ranging from in-port pilferage, to hit and run attacks, temporary seizure of the ship, to long-term seizure, and to permanent theft of the ship."[11] Joshua Ho writes from the perspective of Singapore when he describes three groups that commit piracy in Southeast Asia. They are: (1) small criminals, (2) well-organized criminal gangs, and (3) armed separatists.[12] He argues that criminal gangs and armed separatists are better equipped, organized and are more likely to use violence that includes the use of modern weapons and communications technology to achieve their goals.[13] According to Caroline Liss, the majority of attacks in Southeast Asia are "hit and run attacks" carried out mostly inside territorial waters by two kinds of sea pirates: common sea robbers and social pirates.[14] She breaks "common sea robbers" down further by classifying their level of organization and violence into "Asian Piracy," which is associated with petty theft and robberies, and attacks more violent in nature, using guns and rocket-propelled grenades (RPGs), sometimes leading to murder.[15] The end of the Cold War, increased globalization, greater trade, and profits made mariners and ships more vulnerable at a time when regional governments struggled to maintain control over the waterways. In 2000, the actual and attempted attacks on shipping in

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[10] Dana Robert Dillon, "Piracy in Asia: A Growing Barrier to Maritime Trade," *Heritage Foundation*, June 22, 2000, http://www.heritage.org/research/asiathepacific/bg1379.cfm (accessed May 20, 2009).

[11] Adam J. Young and Mark Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," *Contemporary Southeast Asia* 25, no. 2 (August 2003): 272.

[12] Joshua Ho, "Maritime Counter-Terrorism—A Singapore Perspective," working paper, *Institute of Defense and Strategic Studies Singapore* (2004).

[13] Ibid., 2.

[14] Carolin Liss, "Maritime Piracy in Southeast Asia, "*Southeast Asian Affairs* (2003): 59.

[15] Ibid.

Southeast Asia reached a high of 469 reported attacks, followed by declining numbers in subsequent years.[16] By the mid decade of the new millennium, maritime piracy in Southeast Asia had peaked and then began a steady decline.

In contrast, hijackings and hostage-for-ransom situations that take place while the vessel is at sea characterize piracy in the Horn of Africa and Gulf of Aden. Even though violence is common, hijacked crews are more likely to survive the encounter because they are worth more alive than dead. Similar to Southeast Asia, geography plays an important role in what type of piracy is most likely to be prevalent. The Gulf of Aden is an area that encompasses over 2.5 million square miles of ocean whose neighboring states include Yemen, Ethiopia, Somalia, Kenya and Tanzania. Each year, over 20,000 vessels pass through the Gulf of Aden, making it one of the most important waterways in the world, because it links the Indian Ocean to the Red Sea and Suez Canal.[17] According to the International Maritime Bureau Piracy Reporting Center, in 2008, there were 111 incidents, with 42 vessels hijacked. In 2009, there have been 29 successful attacks, out of 114 attempted attacks. In the Gulf of Aden, there have been 71 attacks, of which 17 have been successful, indicating a significant increase in threats posed by piracy.[18]

Representative of the skills acquired by Somali pirates was the hijacking of the Sirius Star in November 2008. As long as an aircraft carrier, and loaded with crude oil worth 100 million dollars, Sirius Star was intercepted and captured 450 miles out to sea, stunning the world, including the Chairman of the Joint Chiefs of Staff, Admiral Michael Mullen.[19] The tanker was subsequently taken to the territorial waters off Somali, where it remained until the ransom demands of the hijackers were met several months later.[20] This incident is unique for two reasons: size and range. This was the first time that

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[16] Liss, "Maritime Piracy in Southeast Asia," 56.

[17] Congressional Research Service, *Ocean Piracy and Its Impact on Insurance* (Washington, D.C., 2009), http://www.assets.opencrs.com/rpts/R40081_20090206.pdf (accessed June 10, 2009).

[18] ICC Commercial Crime Service, "Pirate Attacks off Somalia already Surpass 2008 Figures," May 20, 2009, http://www.icc-ccs.org/index.php?option=com_content&view=article&id=352:pirate-attacks-off-somalia-already-surpass-2008-figures&catid=60:news&Itemid=51 (accessed May 20, 2009).

[19] Kraska and Wilson, "Fighting Pirates: The Pen and the Sword," 41–52.

[20] The Economist, "Ahoy there!; Somalia," November 22, 2008, http://www.lexisnexis.com (accessed February 19, 2009).

pirates had successfully attacked a vessel of this size and had been the farthest attack from land at just over 400 miles. It is only in the last few years that piracy in the Horn of Africa has replaced Southeast Asia as the world's most piracy-prone area. Stephanie Hanson writes in her article, Combating Maritime Piracy, that, in 2008, global maritime piracy had reached its highest levels since the International Maritime Bureau (IMB) began collecting statistics in 1992. She attributes this rise to the incidence of piracy off the coast of East Africa that had risen 200%.[21]

2.   Causes

Piracy exists because the opportunity for reward outweighs the potential risk. Martin Murphy writes that seven factors are common across all regions where piracy is active, including the Horn of Africa and Southeast Asia. These include: 1) legal and jurisdictional weakness, 2) favorable geography, 3) conflict and disorder, 4) underfunded law enforcement and lack of security, 5) permissive political environments, 6) cultural acceptability, and 7) the promise of reward.[22]

3.   Legal and Jurisdictional Weakness

In both Southeast Asia and the Horn of Africa, legal and jurisdictional problems minimize the risk pirate's take each time they attempt to hijack a ship. International law and the laws of nations regarding piracy are frequently incompatible, and thus, create legal obstacles that minimize accountability and provide the perception of weakness. For example, in September 2008, the Danish flagship Absalon captured ten pirates suspected of attacking merchant ships off the coast of Africa but were forced to release them.[23] Danish laws only allow for prosecution if pirates attack Danish vessels. In addition, evidentiary requirements could not be met for regional states to take action. Peter Chalk

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[21] Stephanie Hanson, "Combating Maritime Piracy," *Council on Foreign Relations*, January 27, 2009, 1, http://www.cfr.org/publicion/18376/combating_maritime_piracy.html (accessed February 17, 2009).

[22] Martin N. Murphy, *Contemporary Piracy and Maritime Terrorism: The Threat to International Security* (New York, NY: Routledge, 2007), 13.

[23] Oliver Hawkins, "What to do with a Captured Pirate," *BBC News,* March 10, 2009, http://news.bbc.co.uk/2/hi/7932205.stm/ (accessed March 24, 2009).

elaborates on this situation further when he writes, "Corruption and dysfunctional systems of national criminal justice have encouraged official complicity in high level pirate rings."[24]

4. Favorable Geography

Both regions of the world—East Africa and Southeast Asia—have geographical conditions that put security forces at a disadvantage. The Strait of Malacca, one of the world's major chokepoints, is one of the busiest sea-lanes in the world. The vast coastlines of Indonesia, Malaysia and Singapore provide numerous coves and inlets from which pirates can stage attacks and return quickly. Each day, over 200 vessels transit through this region, carrying over 10 billion barrels of oil and tons of cargo, enticing pirates to test their skills and luck.[25]

In contrast to the Strait of Malacca, Somalia occupies over 2,000 miles of coastline around the Horn of Africa and the Gulf of Aden, allowing pirates to extend their reach for hundreds of miles into the ocean. When pirates return to shore, lawless conditions, encouraged by little or no security, have provided almost unlimited safe havens and supportive communities where pirates obtain supplies to execute attacks.

5. Conflict and Disorder

Piracy is a symptom of conflict and disorder that erupts on land when coastal regions have weak or failed governments. The Asian financial crisis in 1997 and conflict in the Indonesian government contributed greatly to the spike in piracy in the late 1990s in Southeast Asia. The diversion of funding and resources to other priorities weakens security, encourages corruption and provides criminals with weaknesses to exploit. In Somalia, conflict and disorder, encouraged by the lack of security, forced local fisherman to protect their territorial waters from illegal fishing and vessels dumping waste. According to Peter Lehr, "The first pirate gangs emerged in the 1990s to protect against

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[24] Peter Chalk, *The Maritime Dimension of International Security* (RAND Project Air Force Strategy and Doctrine Program, 2008), 13.

[25] Vijay Sakhuja, "Sea Piracy in Southeast Asia," in *Violence at Sea: Piracy in the Age of Global Terrorism*, ed. Peter Lehr (New York: Routledge, 2007), 23.

foreign trawlers."[26]   Over time, actions taken by fisherman to protect their territorial waters blossomed into a financial enterprise for warlords who demanded cash for the return of vessels and their crews.

6.   Underfunded Law Enforcement and Lack of Security

Both regions suffered from underfunded law enforcement and lack of security. The failure to fund and train coast guards, navies and police allows pirates to operate freely.[27]   Fixing this problem can have significant effects on curbing piracy.   For example, in 1992, Indonesia, Malaysia and Singapore began to patrol the Malacca Strait aggressively, which resulted in the reduction of pirate activity. This effort was suspended after six months, however, due to cost.[28] The attack of September 11 further exacerbated this by shifting funding from piracy to the war on terror. In Somalia, lack of law enforcement caused piracy to grow even worse. Peter Lehr writes that the Somali Navy at one time had several versions of armed patrol craft—given to them by the Soviet Union—capable of patrolling the coastline and waterways.[29] By the early 1990s, the vessels fell into disrepair, providing little or no security to monitor the resource-rich ocean in Somalia's Exclusive Economic Zone (EEZ). This contributed to the current piracy problem by allowing foreign nations to plunder fish stocks.

7.   Permissive Political Environments

Weak governments encourage lax law enforcement. In countries with permissive political environments, resources to combat piracy are scarce.   This encourages corruption, increases crime, and draws attention to areas where security is weak and targets are plentiful, such as the Strait of Malacca and the Horn of Africa. This can

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[26] Ishaan Tharoor, "How Somalia's Fisherman Became Pirates," *Time*, April 18, 2009, http://www.time.com/time (accessed May 20, 2009).

[27] Murphy, *Contemporary Piracy and Maritime Terrorism: The Threat to International Security*, 15.

[28] Ibid.

[29] Peter Lehr, *Violence at Sea: Piracy in the Age of Global Terrorism* (Routledge: New York, 2007), 12.

further erode the stability of surrounding nations. Somalia, Kenya, Yemen, Sudan and Indonesia have all had political problems and are examples of states that have had problems with countering piracy.

8.   Cultural Acceptability

Piracy is most likely to take hold in regions that have a maritime tradition. Martin Murphy suggests that regions that have established trading patterns, such as Southeast Asia and West Africa, are more likely to resort to piracy because of cultural reasons passed on from generation to generation.[30] The large volume of ship traffic that passes through the Horn of Africa and Southeast Asia provides an inviting target for those with seafaring skills to operate at sea.

9.   Promise of Reward

The promise of reward encourages piracy. In both regions, piracy has become a lucrative business. In the Strait of Malacca, where robberies are frequent, pirates steal almost anything of value and go to great lengths to do so. Examples include pirates taking jewelry, TVs and DVD players, to robbing and murdering the crew, and then selling the ship and its cargo. Off the coast of Somalia in January 2009, several pirates drowned when their boat overturned on its way back to shore after receiving a three million dollar ransom for the return of the Sirius Star and its crew. Until the risks outweigh the reward, piracy will continue to be difficult to stop.

10.   Response

Addressing the underlying causes of piracy has required nations to respond in different ways to combat piracy. In Southeast Asia, the closeness of strait nations to one another has heightened sensitivities to state sovereignty. These sensitivities have made the principle of non-intervention the "bedrock of intraregional state relations and have

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[30] Murphy, *Contemporary Piracy and Maritime Terrorism: The Threat to International Security*, 17.

become the single most inhibitor of maritime cooperation in Southeast Asia."[31]   The ability to understand and respond to these issues has required regional and extra-regional responses to ensure cooperation amongst the various nations.   Joshua Ho writes that individual efforts, regional cooperation, bilateral and multilateral measures between the straits nations of Singapore, Malaysia and Indonesia has had an impact on lessening the effects of piracy in the Strait of Malacca.

Examples of individual efforts include Indonesia's push in 2003 to modernize the Navy's platforms, which encouraged an emphasis on coastal interdiction and increasing patrols. [32] Also, in 2005, Indonesian president Yudhoyono increased naval patrols in waters near the Strait of Malacca, in addition to increased intelligence operations in coastal regions.[33] Malaysia constructed radar tracking stations in the Strait of Malacca to track ship traffic, and Singapore increased its maritime patrols.[34] John Bradford notes that the governments of Indonesia, Malaysia and Singapore in 2004 began a series of trilateral coordinated maritime patrols called the Maritime Straits Sea Patrols.[35] These were further augmented in 2005 with coordinated airborne surveillance under the terms of the "Eyes in the Sky" agreement.[36] This cooperation has further expanded to include extra-regional states that rely upon trade routes passing through Southeast Asian waters. Countries, such as the United States, India and Japan, have assisted in capacity building programs and assistance. In 2001, Japan proposed the creation of a regional cooperation agreement called ReCAAP or Regional Cooperation Agreement on Combating Piracy and Armed Robbery in Asia to encourage cooperation and information sharing amongst Asian states. It was the first successful intergovernmental organization whose mission was to combat piracy, culminating in 2006 with the opening of the Information Sharing

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[31] John F. Bradford, "The Growing Prospects for Maritime Security Cooperation in Southeast Asia," *Naval War College Review* 58, no .3 (Summer 2005): 73.

[32] Ho, "The Security of Regional Sea Lanes."

[33] Ian Storey, "Calming the Waters in Maritime Southeast Asia," *Asia Pacific Bulletin,* no. 29 (February 2009): http://www.eastwestcenter.org/fileadmin/stored/pdfs/apb029.pdf (accessed June 5, 2009).

[34] Ho, "The Security of Regional Sea Lanes," 11.

[35] John F. Bradford, "Shifting the Tides against Piracy in Southeast Asian Waters," *Asian Survey* 48, no. 3 (May/June 2008): 482.

[36] Ibid.

Center in Singapore.[37]   The United States has also taken steps towards cooperation by participating in regional exercises that emphasize maritime cooperation, such as the Cooperation and Readiness Afloat (CARAT) exercise that partner the U.S. military with nations, such as Brunei, Singapore, Thailand, Philippines and Indonesia.[38]   The overall outcome has been the increased cooperation between nations and an overall reduction in pirate attacks in Southeast Asia.

Similar to Southeast Asia, the lack of state control, resources, economic distress and endemic corruption in Somalia and regional states has allowed piracy to thrive and has complicated efforts by the United States and coalition nations to combat it. Regional governments in the region have taken action to curtail piracy by adopting a code of conduct similar to ReCAPP proposed by Japan in 2001. Called the Djibouti Code of Conduct to repress acts of piracy and armed robbery against ships, it facilitates the cooperation of member states in efforts, such as the apprehension and prosecution of suspected pirates, information sharing and ship rider programs. Of the 21 countries that attended the convention, nine nations signed the agreement in January 2009, including Somalia, Ethiopia, Kenya, Djibouti and Yemen.[39]

In December 2008, the National Security Council released its approach to combat piracy in the Gulf of Aden titled, "Countering Piracy off the Horn of Africa: Partnership & Action Plan."   The objective of the plan was to focus on immediate short-term measures aimed at preventing, disrupting and punishing acts of piracy by Somali pirate organizations through law enforcement means that support long-term initiatives aimed at stabilizing Somalia.[40]   In 2009, Secretary of State Hillary Clinton announced new counter-piracy initiatives to broaden U.S. strategy in the region that includes increased cooperation, expanding multinational cooperation, bilateral meetings with the Somali

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[37] Bradford, "Shifting the Tides against Piracy in Southeast Asian Waters," 484.

[38] Ibid., 485.

[39] International Maritime Organization, "High-level Meeting in Djibouti Adopts a Code of Conduct to Repress Acts of Piracy and Armed Robbery against Ships," http://www.imo.org/ (accessed February 20, 2009).

[40] U.S. National Security Council, *Countering Piracy off the Horn of Africa: Partnership & Action Plan*, Washington, DC, 2008.

Transitional Federal Government and working with the shipping industry to increase awareness of best practices.[41] Current U.S. strategy includes the creation of an anti-piracy taskforce, Combined Task Force 151 (CTF-151), conducting legal agreements with regional nations and cooperating with other nations to combat piracy effectively.

In response to United Nations Security Council Resolutions (UNSCR) requesting greater international cooperation, NATO, European Union Naval Forces (EU NAVFOR), the United States and other maritime nations have contributed ships and aircraft to the anti-piracy patrol. In May 2009, 28 nations and six international organizations met in New York to participate in the contact group on piracy whose goals were to promote increased, coordination and awareness. To facilitate cooperation amongst nations, four working groups were created to address concerns that include military and operational coordination, information sharing, capacity building, judicial issues, commercial industry coordination and public information.[42]

United States and coalition responses to piracy lie in the belief that piracy is an international problem that requires an international solution. Since coalition operations are primarily using law enforcement mechanisms, they are forced to rely upon international law and individual states laws to combat piracy. This includes observing strict rules of evidence for prosecuting pirates. Problems in enforcement occur because of the lack of a coherent unified strategy brought about by separate chains of command and diverse national strategic goals.

The umbrella of legitimacy that covers all forces combating piracy is the United Nations Conference on the Law of the Sea (UNCLOS). Article 101 sets forth the definition of piracy.

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[41] U.S. Department of State, Announcement of Counter-Piracy Initiatives, April 15, 2009, http://www.state.gov/secretary/rm/2009a/04/121758.htm (accessed June 6, 2009).

[42] America.gov, "Contact Group on Piracy off the Coast of Somalia," May 18, 2009, http://www.america.gov/st/texttrans-english/2009/May/20090518175245xjsnommis0.5672266.html. (accessed June 6, 2009).

Piracy consists of the following acts:

(A) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed:

1. on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

2. against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;

3. any act of voluntary participation in the operation of a ship or aircraft with knowledge of facts making it a pirate ship or aircraft;

4. any act of inciting or of intentionally facilitating an act described in sub paragraph (a) or (b).[43]

Since UNCLOS defines acts that occur on the high seas and not inside the territorial waters of a nation, this has produced constraints that hamper law enforcement action against pirates. The IMB definition closes the gap by defining piracy as, "An act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act."[44] This provides further protections beyond UNCLOS to maritime states whose territorial waters are in close proximity to each other.

To combat piracy, the United Nations (UN) has authorized United Nations Security Council resolutions 1816, 1846 and 1851 on behalf of member states. These authorize progressive actions by states to intervene on both land and sea using force for a period not to exceed one year. Although theses resolutions provide legal protection for nations, they do not provide incentives for nations to act, which limits their effectiveness. Additional areas of concern include the failure of nations to assist in the detention and

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[43] United Nations, *The Law of the Sea: United Nations Convention on the Law of the Sea* (New York: United Nations, 1983), 34.

[44] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 270.

adjudication of suspects. The only countries that have agreements are the United States, United Kingdom and Kenya. To be effective and to reduce the burden on Kenya, more countries need to participate.

In conclusion, the causes of piracy can be found on land and will require a land-based solution to combat. Responses by regional and extra-regional governments so far have included actions taken on land and at sea with varying levels of success. Current literature suggests that the answer to piracy in the Horn of Africa will come from solutions that incorporate Somalia and the surrounding states, in addition to international assistance. Addressing root causes of piracy, in addition to reducing the impact of attacks, can help achieve a lasting, economic, political and security arrangement that reduces the threat of piracy in the Gulf of Aden and Horn of Africa.

E. METHODS AND SOURCES

The basic methodological approach used in this thesis is a comparative case study of piracy that includes Southeast Asia and the Horn of Africa. Comparing contemporary cases of piracy in Southeast Asia and the approaches used by regional and international states to combat piracy can successfully provide lessons learned for the current piracy crisis. The primary sources include books, journal and magazine articles, as well as in-depth analysis of statistics published by the IMB and other relevant organizations.

F. THESIS OVERVIEW

In the Horn of Africa, state failure poses severe challenges to nations in their efforts to curb piracy. The topic of research is to analyze critically why the United States and other maritime nations have been ineffectual in their efforts to stop piracy in the Gulf of Aden. The major research question asks what measures are most effective to combat piracy under conditions of state failure for the United States and other maritime nations.

The second chapter examines the different types, causal factors, responses and outcomes regarding piracy in Southeast Asia since the mid-1990s to present day. Chapter III examines the same types, causal factors, responses and outcomes regarding piracy in the Horn of Africa and the Gulf of Aden from the mid-1990s to present day. The final chapter summarizes the findings and identifies implications for U.S. policy towards piracy in the Horn of Africa and Gulf of Aden.

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II.   PIRACY AND SOUTHEAST ASIA

A.   CHAPTER INTRODUCTION

This chapter briefly addresses the historical background of piracy in Southeast Asia and then examines the decade-long wave of piracy that began in that region during the mid-1990s. It begins by analyzing the different types of piracy that were common during that period, as well as the causal factors that underlie piracy, the response to piracy by regional and extra-regional states, and the eventual outcomes of their actions.

The Strait of Malacca in Southeast Asia and lesser known straits, such as the Sumba, Lombok, Luzon, Singapore and Makassar Straits, have long been considered critical sea lines of communication that have strategically linked this region to the Middle East and North Asia. Despite denials by Southeast Asian governments, for years the Strait of Malacca has been a well-known piracy hotspot.[45] According to the IMB, in 2000, piracy in Southeast Asia peaked with 260 actual and attempted attacks on merchant shipping.[46] In response to the increase in piracy, in 2005, the Joint War Committee (JWC) of Lloyds Market Association declared the Strait of Malacca a high-risk zone because of the danger to shipping and their crews by pirates.[47] In the past, pirates have operated within seams created by economic and political disorder that has affected many Southeast Asia nations. What began as petty theft and banditry in the mid-1990s, turned into a full-blown threat to the security and prosperity of Southeast Asia and other nations that rely on the straits for commerce and transportation. Despite some governments' tendencies to downplay the piracy threat, Southeast Asian countries took strong actions to respond to and curtail piracy over the past few years. These were effective and have been

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[45] Rommel C. Banlaoi, "Maritime Security Outlook for Southeast Asia," in *The Best of Times, The Worst of Times: Maritime Security in the Asia-Pacific*, ed. Joshua Ho and Catherine Zara Raymond (Singapore: Institute of Defense and Strategic Studies, 2005), 61.

[46] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report,* (United Kingdom, January 1–December 31, 2005), 5.

[47] Graham Gerard Ong-Webb, "Piracy in Maritime Asia," in *Violence at Sea: Piracy in the Age of Global Terrorism,* ed. Peter Lehr, (Routledge, 2007), 81.

called the "Asian model" of counter-piracy operations.[48] In 2008, the IMB reported that there were 65 actual and attempted attacks for all of Southeast Asia.[49] In comparison, the Horn of Africa and Gulf of Aden recorded 114 attacks.[50] Lessons learned from this model can provide insight into effective means of combating the contemporary threat of piracy in the Horn of Africa.

B.   HISTORY OF PIRACY IN SOUTHEAST ASIA

Piracy has a long history in Southeast Asia, documented as early as the 14th century, when Chinese writer Lung-Ya Min described the Strait of Malacca as the "Dragon-teeth strait."

> The inhabitants [of this area] are addicted to piracy. When [Chinese Junks] sail to the Western [Indian] Ocean the local barbarians allow them to pass unmolested but when on their return the junks reach Chi-li-men [the Karimun Islands, at the junction of the Malacca and Singapore Straits] the sailors prepare their armor and padded screens as a protection against arrows for, of a certainty, some two or three hundred pirate praus will put out to attack them for several days. Sometimes [the junks] are fortunate enough to escape with a favorable wind; otherwise the crews are butchered and the merchandise made off with in quick time.[51]

For over 2,000 years, the confined waterways, coves and inlets of the straits region have provided sanctuary to those ready and willing to attack vessels passing through Asian waters. According to Donald Freeman, the ascendency of piracy in the Strait of Malacca and surrounding regions began in the 19th century for several reasons. These include the lucrative spice trade in the East Indies between Europe and China, the opening of Japan to Western society, the industrial demand for rubber and tin, and the increased number of vessels transiting through the Strait of Malacca.[52] Piracy was a

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[48] Commander James Kraska, "Fresh Thinking for an Old Problem," *Naval War College Review* 62, no. 4 (Autumn 2009), 147.

[49] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 5.

[50] Ibid., 5.

[51] P. Wheatley, "The Golden Khersonese," in *The Straits of Malacca: Gateway or Gauntlet*, ed. Donald B. Freeman (Montreal: McGill-Queen's University Press, 2003), 175.

[52] Ibid., 178.

dangerous business, and ships passing through this region often faced a gauntlet of pirates, such as the "Malays of Johore and Riau-Lingaa; the Bugis, the Brunei Malays and the Dayak; the Iranuns and the Balangingi."[53] The most feared of all were the Iranun and Balaningi who originated out of the southern Philippines and Borneo.[54]

European sea traders, such as the Portuguese, Dutch and later the British, established a significant presence in Southeast Asia, operating trading companies, such as the East India Trading Company and the Dutch United East India Company between 1500–1800. Efforts by traders to defend themselves from pirates were often ineffectual because they lacked resources and the proper technology to deal with the threat. For example, typical 19th century Malay pirate fleets were comprised of *praus* or small boats that were well armed and powered by slaves rowing with double-banked oars.[55] Trading vessels were no match for their maneuverability and speed because they were dependent on the wind for speed. In 1835, the British responded to European merchants' pleas for help by sending a British sloop, the HMS Wolf, with orders to combat piracy.[56] Despite being heavily armed, the ship's presence was largely ineffective because of its deep draft and reliance on wind for propulsion. These limitations ensured that the HMS Wolf and similar vessels found it difficult to navigate fast-moving currents and treacherous entries into numerous inlets and coves that lined the region.[57] The invention of steam-powered ships in the 1830s would finally provide the British the upper hand in speed and mobility when chasing pirate *praus*. This enabled them to destroy pirate ships and their bases of operation, pushing them further away from European ships to prey on slower and more vulnerable vessels.

In the latter half of the 20th century, piracy again attracted international attention in the aftermath of the Vietnam War, when thousands of refugees fleeing the communists

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[53] Xu Ke, "Piracy, Seaborne Trade and the Rivalries of Foreign Sea Powers in East and Southeast Asia, 1511 to 1839: A Chinese Perspective," *Piracy, Maritime Terrorism and Securing the Malacca Straits,* ed. Graham Gerard Ong Webb (Singapore: Institute of Southeast Asian Studies, 2006), 229.

[54] Ibid.

[55] Freeman, *The Straits of Malacca: Gateway or Gauntlet*, 180.

[56] Ibid., 183.

[57] Ibid.

took to the sea in boats of all sizes. Commonly known as "boat people," their ships were often overloaded, making them easy prey for pirates operating in the Gulf of Thailand and South China Sea.[58]

C.   TYPES OF PIRACY IN SOUTHEAST ASIA

What makes piracy distinct in Southeast Asia, and the straits region in particular, is the different variations of piracy that can occur. It can range anywhere from the petty theft of valuables using little or no force, to the hijacking of a ship and the death of its crew. The reason for these differences is based on how UNCLOS and the IMB define piracy. UNCLOS takes a narrow approach that limits what acts can be called *piracy,* based on location, such as the twelve-mile territorial limit. The IMB has a broader view that incorporates regional trends and differences, such as attacks in port or at anchor. In 1993, the IMO classified piracy into three categories in an effort to educate the maritime community and provide guidance on piracy.

- Low Level Assault of Armed robbery. Generally executed from land or at anchor. Characterized by little or no violence.

- Medium-Level Armed Assault and Robbery. Executed by people who are more organized. Attacks can happen from land or come from the sea.

- Major Criminal Hijackings. Involve violence that often times leads to the death of crews and hijacking of a ship and its cargo for money.[59]

This general classification did not account for the unique aspects of piracy in Southeast Asia. The author has chosen to follow the example used by Caroline Liss because it clarifies the three categories further by dividing pirates into two groups: (1) opportunistic sea-robbers, who conduct small-scale attacks lasting a short amount of time, and (2) organized pirate gangs that conduct hijackings and other kinds of attacks.[60]

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[58] Tamara Renee Shie, "Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation," in *Piracy, Maritime Terrorism and Securing the Malacca Straits,* ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2006), 170.

[59] Sakhuja, "Sea Piracy in Southeast Asia," in *Violence at Sea: Piracy in the Age of Global Terrorism*, 24.

[60] Caroline Liss, "The Roots of Piracy in Southeast Asia," *Austral Policy Forum* 07-18A, October 22, 2007, http://www.globalcollab.org/Nautilus/australia/apsnet/policy-forum/2007/the-roots-of-piracy-in-southeast-asia/ (accessed September 25, 2009).

1.   Opportunistic Sea Robbers

Attacks by this group usually consist of "hit and run" robberies whose goal is to loot as much as possible before detection.   According to Adam Young and Mark Valencia, "criminals sneak aboard ships, generally at night, and steal what they can immediately lay their hands on like cash and electronic equipment."[61]   These attacks usually last no longer than 15–30 minutes and require little planning.[62]   Increasingly dangerous are temporary or short-term seizures that require prior intelligence, better organization, and skills, such as boarding moving ships at night using grappling hooks, ladders and automatic weapons.   This also requires more personnel to control the crew of a vessel, increasing the risk to both crew and the pirate.[63]

2.   Organized Pirate Gangs

Attacks conducted by these groups are considerably more organized and violent. They cover the spectrum of attacks on shipping that includes medium-sized vessels, such as cargo ships, tankers and bulk carriers.   These are often long-term or permanent seizures.[64]   Long-term seizures include the hijacking of a ship while at sea, the detention of the crew and the offloading of cargo for sale.   Permanent seizures often include killing the crew, offloading the cargo and changing the registry of the vessel for use or sale in another country.   Commonly known as a "phantom ship," this permits pirates to continue using the vessel long after it has been reported missing.[65]   An example of this type of attack was the hijacking of the Alondra Rainbow in 1999 while it transiting through Indonesian waters.   Pirates boarded the ship and held the crew hostage for a week before setting them adrift in a life raft, later to be picked up by a passing ship.   The vessel was

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[61] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 272.

[62] Liss, "Maritime Piracy in Southeast Asia," 59.

[63] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 272.

[64] Liss, "Maritime Piracy in Southeast Asia," 62.

[65] Ibid., 63.

later found and detained in Indian waters after it was renamed the Mega Rama.[66] As piracy continued to surge, pirate tactics evolved further by hijacking ships for the sole purpose of ransoming the crew for cash.

D.   CAUSES OF PIRACY IN SOUTHEAST ASIA

At its most basic level, piracy is an act executed for economic gain. What has driven people in Southeast Asia to embrace piracy as a way of life is often varied and complex. The key to minimizing the threat requires understanding the underlying factors behind it. For this paper, the author uses the structure put forward by Martin Murphy because it provides a comprehensive framework that closely addresses factors related to piracy regardless of region. These include: 1) legal and jurisdictional weaknesses, 2) favorable geography, 3) conflict and disorder, 4) underfunded law enforcement, 5) permissive political environments, 6) cultural acceptability and 7) the promise of reward.

1.   Legal and Jurisdictional Weakness

One reason why the governments of Malaysia and Indonesia failed to acknowledge they had a piracy problem was due to how it was defined in international law. UNCLOS, created during the Cold War, defines piracy as "any acts of violence, detention or depredation committed for private ends on the high seas."[67] In the Strait of Malacca and surrounding regions, this is significant because of the unique geographical confines of the straits, in particular, the lower one-third where territorial boundaries often overlap. This encouraged littoral states, such as Indonesia and Malaysia, to treat piracy as an internal state problem rather than a growing transnational threat to fisherman and vessels transiting through the straits.

Within a regional context, jurisdictional issues and disagreements between Singapore, Malaysia and Indonesia over the safety and security of the straits facilitated their collective inability to act, contributing to the rise in piracy. J. N. Mak notes, "the

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[66] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 274.

[67] United Nations, *The Law of the Sea: United Nations Convention on the Law of the Sea* (New York: United Nations, 1983), 34.

overarching problem was the clash of interests between the key littoral states of Malaysia and Indonesia, which are coastal states with coastal interests on the one hand and international users on the other."[68] Singapore's location near the straits makes it a littoral state, but its interests, perceptions and reliance on international maritime traffic make it more likely to adopt the views of the user-states over those of its regional neighbors.[69] Disagreements between the strait nations over sovereignty issues were problematic as well. As former colonial possessions, Malaysia, Indonesia, and to a lesser extent Singapore, have been sensitive to issues involving sovereignty because of their history of exploitation. This has made them sensitive towards outside interference in their territorial waters, which has often inhibited the cooperation and information-sharing necessary to combat piracy.

2. Favorable Geography

Geography is a significant factor that must be accounted for when piracy is discussed. The Strait of Malacca has long been one of the main shipping routes between the Indian and Pacific Oceans and has been a source of economic, strategic and political importance to regional and international states. A little over 600 miles long, the strait shares a common border between Indonesia, Malaysia and Singapore. At its narrowest point, the strait measures just 1.5 miles wide and is draft-limited to 72 feet.[70] Along the coast, numerous coves, inlets, waterways, sandbars and reefs provide hideouts and easy access to escape, once an attack is complete. The sheer size of the region also makes combating piracy a difficult task. For example, Indonesia claims "81,000 km of coastline, 3 million sq km of territorial waters and an additional 3.1 million square km in their Economic Exclusion Zone or EEZ."[71] The shape of the strait plays a role as well,

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[68] J. N. Mak, "Unilateralism and Regionalism: Working Together and Alone in the Malacca Straits," in *Piracy, Maritime Terrorism and Securing the Malacca Straits,* ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2006), 135.

[69] Ibid., 135.

[70] John Doer and David Gregory, *Chokepoints: Maritime Economic Concerns in Southeast Asia* (Washington, D.C.: National Defense University Press, 1996), 2.

[71] Adam Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies* (Singapore: Institute of Southeast Asian Studies, 2007), 70.

funneling ships through constricted sea-lanes, providing a predictable route for pirates to attack. Half of the world's seaborne trade and oil supplies flow through this chokepoint.[72] According to Tamara Shie, "Six of the top twenty-five container ports in the world are located in Southeast Asia: Singapore, Port Kelang (Malaysia), Tanjung Priok (Indonesia), Tanjung Pelepas (Malaysia), Laem Chabang (Thailand), and Manila (the Philippines)."[73] The size of vessels transiting through this region varies from small yachts to the largest ships in the world, such as Very Large Crude Carriers (VLCC) and Ultra Large Crude Carriers (ULCC). Their size and predictable course provide easy targets for determined criminals and pirates. Lastly, the lack of hot pursuit agreements between the littoral states has allowed fleeing pirates to cross borders at will, allowing them to escape detention and arrest.

3. Conflict and Disorder

The end of the Cold War between the United States and the Soviet Union represented a fundamental change in the security and stability of the region. It signaled the retreat of American and Russian influence and a corresponding reduction in their naval presence. This left Southeast Asian nations responsible for their own security. However, many of them were unprepared to provide security to ships at sea and in port, creating gaps that pirates were able to exploit. Exacerbating this further was a weakened Suharto government in Indonesia. Unable to exert state influence in the farthest regions of Indonesia, rebel groups, such as the Free Aceh Movement or GAM were able to grow, requiring additional resources to combat at the expense of security concerns in the Strait of Malacca. The Asian financial crisis in 1997 caused considerable economic instability throughout the region, leading to widespread unemployment and poverty. In 1998, the gross domestic product (GDP) for Indonesia contracted 14% while inflation shot up to 80%.[74] As a result of the instability, President Suharto resigned in May 1998.

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[72] Sam Bateman, "Regime Building in the Malacca and Singapore Straits: Two Steps Forward, One Step Back," *The Economics of Peace and Security Journal* 4, no. 2. (2009): 45.

[73] Shie, "Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, 164.

[74] Michael Malley, "Indonesia: The Erosion of State Capacity," in *State Failure and State Weakness in a Time of Terror*, ed. Robert I. Rotberg (Washington, D.C.: Brookings Institutions Press, 2003), 186.

Globalization, and the interconnected nature of world economies and their reliance on shipping to move products, ensured greater numbers of vessels would need to transit through the Malacca Strait. Increased numbers of ships meant an increase in potential targets for pirates to attack.

4.   Underfunded Law Enforcement and Lack of Security

Inadequate funding and training for police and maritime security forces allows pirates to operate freely because they do not have the capabilities to deter or prevent pirates from attacking ships. Patrolling waterways requires large number of boats, personnel and technology. Support from shore-based facilities is also needed to provide intelligence on the movement of ships and pirates.[75]

The Asian financial crisis had a profound impact on the lack of funding for security and law enforcement activities of nations in Southeast Asia. Indonesia was hit particularly hard with massive unemployment and poverty that affected the general welfare of Indonesians.[76] The country's defense budget declined by 65% from 1997 to 1998, limiting expenditures on its maritime security force tasked with patrolling Indonesian waters, providing more opportunities for pirates to strike.[77] Furthermore, the government budget supplied no more than 30% of military expenditures, which required soldiers to find alternative methods to support their families and upgrade equipment and facilities.[78] This encouraged members of the military to find other ways to augment their incomes, such as bribes, extortion and piracy.

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[75] Martin N. Murphy, "Contemporary Piracy and Maritime Terrorism: The Threat to International Security," *Adelphi* 47, no. 388 (June 2007): 15.

[76] Adam Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies* (Singapore: Institute of Southeast Asian Studies, 2007), 61.

[77] Dillon, "Piracy in Asia: A Growing Barrier to Maritime Trade."

[78] Michael Malley, "Democratization and the Challenge of Defense Reform in Indonesia," in *Global Politics of Reform*, ed. Thomas Bruneau and Harold Trinkunas (New York: Palgrave Macmillan, 2008), 251–269.

5. Permissive Political Environments

At the same time as the Asian financial crisis, the Suharto regime in Indonesia was undergoing a period of instability. In the province of Aceh, near the Strait of Malacca, unrest required resources and money that otherwise could have been used to fight piracy. Banlaoi argues that one of the reasons for lax security has been the political instability and weak governmental institutions of Indonesia and the Philippines that helped contribute to the rise of piracy.[79] Corruption was another factor that encouraged permissive political environments. According to Young, corruption is widespread throughout Southeast Asia, including the littoral states of Malaysia and Indonesia.[80] To operate effectively, pirates need safe places to sell their goods. This requires the support and cooperation from people on land, such as harbormasters, local police, bureaucrats and even the military.[81] It has been documented that members of the Indonesian military have attacked vessels. For example, in 1992, John Burnett, the author of *Dangerous Waters, Modern Piracy and Terror on the High Seas*, was beaten and robbed while transiting waters near Singapore at night on his yacht. He believed the three men who attacked him were in the Indonesian military [82]

6. Cultural Acceptability

According to Martin Murphy, piracy thrives where it is culturally acceptable. In regions that have a long history of seaborne trade, such as Southeast Asia, piracy has become a tradition that has made it a permanent feature of the environment and a culturally acceptable way of life.[83] In tough times, it has provided a secondary means of providing support for local villages. Banlaoi argues that the economic impact of the

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[79] Banlaoi, "Maritime Security Outlook for Southeast Asia," in *The Best of Times, The Worst of Times: Maritime Security in the Asia-Pacific*, 63.

[80] Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies,* 76.

[81] Ibid.

[82] John S. Burnett, *Dangerous Waters: Modern Piracy and Terror on the High Seas* (New York: First Plume Printing, 2002), 2.

[83] Martin Murphy, "Contemporary Piracy and Maritime Terrorism: The Threat to International Security," *Adelphi* 47, no. 388 (June 2007): 17.

Asian financial crisis amplified poverty, which caused some people to "return to the old ways of finding a living," which included using piracy as an alternate source of income.[84]

7. Promise of Reward

The relatively low risk of capture or incarceration is offset by the promise of reward for pirates who attempt to either rob or hijack ships. Large ships limited by speed and draft, moving in a predictable direction, provide a tempting target for fisherman looking to augment their income or criminals intent on their next score. Catherine Raymond notes that in the Malacca Strait, ransom demands can range from $100,000 to $200,000, although hijackers often settle for considerably less, "somewhere between ten and twenty thousand dollars."[85] In areas where poverty is prevalent, even this reduced sum is a significant amount of money for most people in this region.

E. RESPONSES TO THE RISE OF PIRACY IN SOUTHEAST ASIA

The response to piracy in Southeast Asia has required a concerted effort on behalf of the littoral states, their neighbors and the international community. IMB statistics shows that the number of pirate attacks have been steadily declining over the last few years.[86] Several events transpired to focus attention on this region. This includes the record number of attacks in 2000; the September 11 attacks on the United States, and the Joint War Committee of the London Marine Insurance Market listing the Malacca Strait as a war risk, raising insurance premiums.[87] Throughout this period, national, bilateral, multilateral and extra-regional actions taken by states collectively acted to reduce piracy.

One of the earliest responses to piracy was the creation of the Piracy Reporting Center in Kuala Lumpur Malaysia. In the early 1990s, as the frequency of successful pirate attacks was increasing, there were no formal mechanisms to collect and

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[84] Banlaoi, "Maritime Security Outlook for Southeast Asia," in *The Best of Times, The Worst of Times: Maritime Security in the Asia-Pacific*, 63.

[85] Raymond, "Piracy and Armed Robbery in the Malacca Strait," 34.

[86] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 5.

[87] David Rosenberg and Christopher Chung, "Maritime Security in the South China Sea: Coordinating Coastal and User State Priorities," *Ocean Development and International Law* 39, no. 1 (2008): 60.

disseminate information to mariners, shipping companies and states trying to combat piracy. The focus of the Piracy Reporting Center was to provide a means for mariners to report attacks and suspicious movements of vessels, and to start the response process and gather statistical data.[88]   Their efforts helped raise the profile of piracy by working closely with governments, insurance providers and shipping companies, while providing much-needed publicity to spur nations into action.

1.   National Efforts

Prior to the September 11 attacks on the United States, littoral states pursued national and bilateral security arrangements rather than multilateral efforts for several reasons. First, Malaysia and Indonesia, whose borders occupy a significant portion of the straits, have resisted any perceived lessening of its sovereignty in its territorial waters, making efforts at cooperation difficult. Second, Indonesia and Malaysia viewed piracy as a domestic rather than a regional problem, allowing them to ignore initiatives aimed at securing the waterway. Third, Southeast Asian terrorist and separatist groups, such as the Abu Sayyaf Group (ASG) and GAM, were perceived as movements that threatened individual states that required a unilateral rather than a multilateral response.[89] According to Anthony Massey, "there was little pressure given to maritime security in the Strait of Malacca region in general prior to 9/11 that would give these states an incentive to pursue multilateral levels of cooperation."[90]   Despite these issues, national measures taken by Indonesia, Malaysia and Singapore before and after the September 11 attacks have played a significant role in the reduction of piracy in the region.

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[88] International Maritime Bureau, http://www.icc-ccs.org/index.php?option=com_content&view=article&id=30:welcome-to-imb-piracy-reporting-centre&catid=28:home&Itemid=12 (accessed August 18, 2009).

[89] Anthony Massey, *Maritime Security Cooperation in the Strait of Malacca* (Master's thesis, Naval Postgraduate School, Monterey, CA), 23.

[90] Ibid.

a. *Indonesia*

Ian Storey writes "between 2000 and 2006 a quarter of global piracy incidents, and two-thirds of those in Southeast Asia, occurred in Indonesian waters."[91] A significant reason for this was the economic and political impact of the Asian financial crisis in 1997 that weakened the Indonesian government and military.[92] Table 1 illustrates this by showing that the rise of piracy in Indonesian waters coincided with a weakened Indonesian government. By 2004, as the political and economic situation improved, the Indonesian government took steps that caused piracy to decline. The most important was the Indonesian government's recognition that a problem with piracy existed. Wary of international pressure, the Indonesian government implemented several unilateral actions, which demonstrated its resolve at reducing piracy in their region. For example, the Indonesian Navy responded by pursuing reforms and modernization, with an emphasis on coastal interdiction.[93] In 2004, command and control centers were established in Bantam in the Riau islands and Belawan in Northern Sumatra to increase response times.[94] In 2005, President Yudhoyono ordered an increase in naval patrols and intelligence-gathering operations in waters next to the Malacca Strait to provide security.[95] That same year, the Indonesian government launched Operation GURITA, a show of force in waters frequented by pirates that involved over 20 ships and aircraft.[96] Underscoring Indonesia's commitment was the implementation of programs that addressed poverty and the welfare of people in remote areas of the country.[97] For example, North of Tanjung Balai off the coast of Sumatra, "some villages and dens of pirates have now been reconnected with the economic and administrative centers through

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[91] Ian Storey, "Calming the Waters in Maritime Southeast Asia," *East-West Center, Asia Pacific Bulletin*, no. 29, February 18, 2009.

[92] Michael Malley, "Indonesia: The Erosion of State Capacity," in *State Failure and State Weakness in a Time of Terror*, ed. Robert I. Rotberg (Washington, D.C.: Brookings Institutions Press, 2003), 183–218.

[93] Ho, "The Security of Regional Sea Lanes," 10.

[94] Ibid.

[95] Ibid.

[96] John Bradford, "Shifting The Tides of Piracy Against Piracy In Southeast Asian Waters," *Asian Survey* XLVIII, no. 3 (May/June 2008): 480.

[97] Ho, "The Security of Regional Sea Lanes," 11.

new infrastructures, such as sewers and wider asphalt roads."[98]   According to Sam Bateman, "official and community attitudes against piracy in Indonesia have hardened in recent years." [99]   This has played a key role in reducing piracy and armed robbery in the Malacca strait.

1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
47	60	115	119	91	103	121	94	79	50	43	3

Table 1.   Piracy Incidents in Indonesia by Year[100]

IMB piracy data corroborate efforts taken by Indonesia and show a corresponding reduction in incidents of pirate attacks. For example, the IMBs record of attempted and actual attacks within Indonesian waters steadily declined: 121 attacks in 2003, 94 in 2004, 79 in 2005, and 50 in 2006.

b.   Malaysia

The Malaysian response included the establishment of an anti-piracy task force in 2000 by the Royal Malaysian Police Force. They added 20 strike craft and rigid inflatable boats, and began construction of several radar tracking sites used to monitor the flow of traffic in the straits.[101]   In 2005, the Malaysian Maritime Enforcement Agency (MMEA) was created from existing agencies to form the equivalent of a coast guard able to patrol Malaysian waters.

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[98] Eric Frecon, "Piracy in the South China Sea: Maritime Ambushes off the Mangkai Passage," in *RSIS Commentaries*, S. Rajaratnam School of International Studies 18/2009, February 20, 2009, http://www.rsis.edu.sg/publications/Perspective/RSIS0182009.pdf (accessed October 15, 2009).

[99] Bateman, "Regime Building in the Malacca and Singapore Straits: Two Steps Forward, One Step Back," 48.

[100] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2005), 5.

[101] Ho, "The Security of Regional Sea Lanes," 11.

c.   *Singapore*

Of the three littoral governments, Singapore is the most dependent on trade that flows through the straits, and has taken corresponding steps to increase capacity and security. This includes the implementation of an integrated surveillance and tracking network and randomly escorting high-value merchant vessels in their waters.[102] In 2004, Singapore also signed the 1988 Rome convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention), prompted by the hijacking of the Achille Lauro to increase legal options to prosecute pirates.

2.   Bilateral Efforts

In addition to national measures, since the early 1990s, the littoral states have made some efforts to work together to combat piracy and armed robbery at sea. In 1992, Malaysia and Indonesia agreed to provide anti-piracy patrols with an emphasis on coordination and communication-sharing capacity, laying groundwork for future operations.[103] They also established a Maritime Operations Planning Team to coordinate patrols in the straits.[104] In 2005, Indonesia and Singapore launched project SURPIC, a real-time surveillance system to monitor traffic in the Singapore Straits to facilitate cooperation and the best use of patrol assets.[105]

Besides the littoral states, regional nations have participated by conducting patrols and exercises in the region. For example, in September 2004, India and Indonesia conducted joint patrols in the six-degree channel west of the Malacca Strait between the

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[102] Ho, "The Security of Regional Sea Lanes," 11.

[103] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 279.

[104] Ho, "The Security of Regional Sea Lanes," 13.

[105] Ministry of Defense Singapore, "Singapore and Indonesian Navies Launch Sea Surveillance System," May 27, 2005, http://www.mindef.gov.sg/imindef/news_and_events/nr/2005/may/27may05_nr2.html (accessed October 23, 2009).

Nicobar Islands and Indonesia's Aceh province. In 2003, Malaysia and Thailand increased maritime patrols along the Malaysia-Thai border because of concerns over "arms smugglers, insurgents and terrorists operating in the area."[106]

Despite national and bilateral efforts by the littoral states to combat piracy, it became apparent that regional cooperative mechanisms would be needed. The transnational nature of piracy and the emphasis placed on sovereignty by Indonesia and Malaysia presented jurisdictional challenges to anti-piracy forces as they attempted to pursue and punish pirates. Without effective and lasting regional cooperation, pirates will continue to exploit jurisdictional weaknesses.[107]

3. Regional Efforts

Regional efforts that emphasized operational actions have marked a major step forward in maritime security cooperation and have played an important role in reducing the number of attacks in the straits. One of their first joint efforts was the implementation of STRAITREP in 1998 by the IMO, a joint Indonesian, Malaysian and Singapore ship reporting system that emphasized information sharing and cooperation amongst straits nations.[108] After the September 11 attacks, the attitude of littoral governments towards security in the straits changed as the relevance of non-traditional crimes, such as armed robbery and piracy began to be viewed by the United States and other maritime nations as a security concern. Increased levels of violence used by pirates against larger vessels led some observers to conclude that a connection between piracy and terrorism existed. In May 2004, Dr. Tony Tan, the deputy prime minister and coordinating minister for security in Singapore, stated that, "the possible nexus between piracy and maritime terrorism is probably the greatest concern to maritime security."[109] The example he used

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[106] Joshua Ho, "The Security of Sea Lanes in Southeast Asia," *Asian Survey XLVI,* no. 4 (July/August 2006): 568.

[107] Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies,* 82.

[108] Joshua Ho, "Operationalising the Regional Maritime Security Initiative," working paper, *IDSS Commentaries*, Singapore (2004).

[109] Jeffery Chen, "The Emerging Nexus between Piracy and Maritime Terrorism in Southeast Asian Waters: A Case Study on the Gerakan Aceh Merdaka (GAM)," in *Violence at Sea,* ed. Peter Lehr (New York, Routledge, 2007), 139.

to highlight the tenuous linkages between piracy and terrorism is the 2003 hijacking of the MV Dewi Madrim in the Malacca Strait. According to Martin Murphy, the report of this incident originated from the Aegis Defense Services and concluded that the pirates who boarded the ship exhibited behavior similar to terrorists.[110] While on board, it was reported that they took control of the ship and attempted to gain ship-handling experience before they left, drawing comparisons with the 9/11 hijackers gaining flight experience prior to the attack.[111] Even though these events were later disputed by the owner of the ship and other agencies, linkages between pirates and terrorists has remained. Peter Chalk writes, "to date there has been no credible evidence to support speculation about this nexus. Moreover the objectives of the two actors remain entirely distinct."[112]

Concerns over the Regional Maritime Security Initiative proposed by the United States, which included possible intervention by the United States, prompted Malaysia, Indonesia and later Singapore in 2004 to agree to trilateral coordinated surface patrols called the Malacca Strait Sea Patrols (MALSINDO). These patrols consisted of numerous ships from Malaysia, Indonesia and Singapore with the goal of reducing piracy and smuggling activities by conducting coordinated patrols in the waters of participating nations. The name was later changed to the Malacca Strait Patrol. Thailand began participating in 2008.

In 2005, joint air patrols were added to strengthen regional efforts under the Eyes in the Sky (EIS) plan to increase coverage and response times to surface forces.[113] According to Pottengal Mukundan, director of the IMB, coordinated patrols between the littoral states had an enormous impact on the decline of piracy, because "the pirates could no longer jump from one country's jurisdiction to the other, leaving a pursuing vessel behind, the navy of the next jurisdiction was waiting. The result was that the strait was

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[110] Martin Murphy, *Small Boats, Weak States, Dirty Money: Piracy & Maritime Terrorism in the Modern World* (London: Hurst Publishers, 2009), 160.

[111] Robert Snoddon, *Piracy and Maritime Terrorism: Naval Responses to Existing and emerging Threats to the Global Seaborne Economy*, ed. Peter Lehr (New York: Routledge, 2007), 232.

[112] Chalk, *The Maritime Dimension of International Security: Terrorism, Piracy, and Challenges for the United States*, 31.

[113] Raymond, "Piracy and Armed Robbery in the Malacca Strait," 37.

being diligently patrolled from all sides."[114]   Despite attempts at operationalizing cooperative mechanisms, there have been disagreements about their effectiveness. Bateman writes that "cooperation between and among littoral countries is still rather less than ideal: the coordinated air surveillance is infrequent; the surface patrols are coordinated rather than joint; and there are restrictions on the hot pursuit of suspicious vessels into the territorial sea of another country."[115]

In the mid-1990s, regional initiatives supported by the Association of Southeast Asian Nations, (ASEAN), began to contribute to information and cooperative sharing mechanisms that focused attention on the need to combat piracy. Formed in 1967 by Singapore, Indonesia, Malaysia, Philippines and Thailand, ASEAN's early years were marked by efforts to protect national interests that foster economic, social and cultural ties amongst member nations, often at the exclusion of security related matters.[116] Reinforcing this attitude was its identity and the foundation of their decision-making strategy, called the "ASEAN Way," based upon the principle of non-interference.[117]   It has been characterized "by the dual Malay terms of *musyawarah* (consulation) and *mufakat* (consensus), which is a step by step process of dialogue over issues designed to build confidence and avoid conflict amongst members."[118]   The end of the Cold War convinced ASEAN members that collective security arrangements would be needed, so they took steps to ensure agreements between nations would be in place. In 1992, in the Singapore declaration, ASEAN acknowledged "the necessity of regional security cooperation," for the first time.[119]   In 1997, ASEAN recognized piracy as a regional problem and took steps to implement change in the ASEAN Declaration on Transnational

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[114] Floyd Whaley, "Regional Cooperation's Unsung Success Story: Fighting Piracy in the Malacca Strait," April 2009, http://development.asia/issue03/cover-05.asp (accessed October 28, 2009).

[115] Bateman, "Regime Building in the Malacca and Singapore Straits: Two Steps Forward, One Step Back," 48.

[116] Shie, "Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, 169.

[117] Ibid.

[118] Ibid.

[119] Ibid., 171.

Crime.[120] Further efforts in 2001 included ASEAN developing a transnational crime unit that specialized in "terrorism, trafficking in persons, piracy, arms smuggling, money laundering, commercial crime and cyber crime."[121] ASEAN members also signed a "Statement on Cooperation against Piracy and Other Threats to Maritime Security that acknowledged the need for greater cooperation and coordination in 2002."[122] Lastly, in 2004, at a meeting in Tokyo, 14 members from the ASEAN + 3 forum plus India, Sri Lanka and Bangladesh agreed to establish an Information Sharing Center (ISC) in Singapore under the terms of the ReCAAP agreement.[123]

In 1993, ASEAN nations agreed to create a forum that addressed regional security needs. Called the Asian Regional Forum (ARF), its purpose has been to increase participation and promote dialogue on security matters that include piracy and armed robbery at sea. Their membership has now expanded to include Australia, Bangladesh, Brunei Darussalam, Cambodia, Canada, China, European Union, India, Indonesia, Japan, Democratic Peoples' Republic of Korea, Republic of Korea, Laos, Malaysia, Myanmar, Mongolia, New Zealand, Pakistan, Papua New Guinea, Philippines, Russian Federation, Singapore, Sri Lanka, Thailand, Timor Leste, United States and Vietnam.[124] In 2003, to strengthen anti-piracy measures, the ARF adopted the Statement on Cooperation against Piracy and Other Threats to Maritime Security, which encouraged participants to adopt "bilateral and multilateral cooperation among ARF members to combat piracy, including increased personnel contact, information exchanges and anti-piracy exercises, on the basis of respecting territorial integrity, sovereignty, sovereign rights and jurisdiction in

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[120] Shie, "Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, 171.

[121] Ibid., 176.

[122] Ibid., 177.

[123] Joshua Ho, "Piracy in the Gulf of Aden: Lessons from the Malacca Strait," *RSIS Commentaries*, (January 22, 2009).

[124] ASEAN Regional Forum, http://www.aseanregionalforum.org/AboutUs/tabid/57/Default.aspx (accessed October 12, 2009).

accordance with...."[125] In 2004, at the ARF workshop on Maritime Security in Kuala Lumpur, participants agrees that collective action was required to address maritime threats and issues, such as the safety of navigation and the development of a surveillance and timely information system.[126]

Additional regional mechanisms that stress cooperation and information sharing include the establishment in 2006 of the Regional Cooperation Agreement on Combating Piracy (ReCAAP) and the Cooperative Mechanism for the Strait of Malacca and Singapore in 2007.

4.   International Efforts

International pressure has also played a role in reducing piracy. In 2004, the U.S. Pacific Command proposed the Regional Maritime Security Initiative (RMSI), a long-term approach aimed at addressing transnational threats, such as terrorism, trafficking in humans, drugs, movement of illicit cargo and piracy in the Asia Pacific region.[127]   Its purpose was to deny the maritime regime to criminals and terrorists ensuring a secure maritime environment. The focus was supposed to promote cooperation and security amongst regional and international states but failed because of comments made in 2004 to Congress by the then Commander of the United States Pacific Command (USPACOM), Admiral Fargo. He remarked that the United States was looking at placing Special Forces on high-speed vessels in the Strait of Malacca to interdict terrorists.[128] Fargo's comments provoked an outcry from the Malaysian Deputy Prime Minister and Indonesian Defense Minister, both of whom rejected the idea. They felt that the presence of U.S. forces would infringe upon their sovereignty and would not be tolerated in the

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[125] ASEAN and ARF Maritime Security Dialogue and Cooperation, *Excerpts from the ARF Statement on Cooperation against Piracy and Other Threats to Maritime Security, Phnom Penh, June 18, 2003*, October 4, 2007, http://www.un.org/Depts/los/consultative_process/mar_sec_submissions/asean.pdf. (accessed October 13, 2009), 7.

[126] ASEAN Annual Report 2004-2005, ASEAN Security Community (2005).

[127] Commander U.S. PACOM, "Commander United States Pacific Command Strategy for Regional Maritime Security," working paper, *USPACOM*, 2004.

[128] Rosenberg and Chung, "Maritime Security in the South China Sea," 55.

Strait of Malacca.[129]   Although the RMSI ultimately failed, another avenue of approach used by the U.S. has been to provide capacity-building support in the form of technical assistance, training programs, joint exercises and information exchange.[130]

The unintended result of Admiral Fargo's comments led the United States to switch from initiatives aimed at overt U.S. involvement to those that provided funding for capacity building programs. For example, external assistance provided by the United States has been used to monitor terrorist activity in the Strait of Malacca. In fiscal years 2006–2008, Indonesia received 57.5 million dollars in funds to improve its maritime situational awareness capabilities to include the installation of coastal radars to monitor deter and interdict terrorists, criminals and pirates operating in the Strait of Malacca.[131] In FY 2007–2008, Malaysia received 16.3 million dollars for nine coastal radars along the Sabah coast and money to upgrade its aerial surveillance capabilities.[132]   A by-product of funding security and terrorism related concerns, has allowed the littoral states to address and strengthen other security needs, such as piracy by providing increased surveillance and coordination. Other efforts by the U.S. include participation in regional exercises, such as the Cooperation and Readiness Afloat (CARAT) and South East Asia Cooperation against Terrorism (SEACAT).

Japan has played a significant role by promoting several successful bilateral and multilateral anti-piracy initiatives. Japanese maritime security strategy relies upon the safety and security of the Strait of Malacca because 99 % of its oil and 70% of its food arrives by sea, most of it coming through the Malacca Strait region.[133]   Closure of the strait for any reason would have a significant economic impact on Japan. An example that highlighted Japan's concern was the collision between the oil tanker, Nagasaki Spirit,

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[129] Rosenberg and Chung, "Maritime Security in the South China Sea," 55.

[130] The Malaysia Insider, "How Piracy can be, and is being Defeated," *The Malaysia Insider* (January 2009), http://www.themalaysianinsider.com/index.php/world/16283-how-piracy-can-be-and-is-being-defeated (accessed August 14, 2009).

[131] Inspectors General, U.S. Department of Defense and U.S. Department of State, *Interagency Evaluation of the Section 1206 Global Train and Equip Program,* IE 2009-007 (Washington D.C., August 31, 2009), 2.

[132] The Malaysia Insider.

[133] Rosenberg and Chung, "Maritime Security in the South China Sea," 56.

and the container vessel, Ocean Blessing in the Strait of Malacca following a suspected pirate attack. The resultant fires burned for five days consuming over 100,000 tons of Japanese petroleum, killing the crews of both vessels.[134] Although this incident did not have significant economic effects, it pushed the Japanese towards promoting cooperation amongst Southeast Asian nations in an effort to promote safety and security. Bilateral approaches taken by the Japanese coast guard have yielded results through training, equipping and funding all of the coastal states in the South China Sea.[135] In 2000, the Japanese coast guard conducted anti-piracy training with India and Malaysia. Since then, the Japanese have conducted training with all three of the strait nations and other Southeast Asian nations, such as Brunei, India and the Philippines.[136] Despite the success, multilateral approaches have fared less well because of opposition by Malaysia and Indonesia over Japanese involvement in patrolling the straits.

F.   OUTCOMES

For the first three quarters of 2009, IMB data shows that there have only been thirty-two attacks in Southeast Asian waters compared to forty-one in 2008.[137] The reason for the decline has been the response by littoral, regional and extra-regional states to increased security and cooperative mechanisms in an effort to reduce the number of pirate attacks. What is significant is that national, bilateral and multilateral efforts had varying levels of effect, but by themselves, were unable to reduce the number of attacks by pirates. Regional efforts by ASEAN and ARF nations, in particular those proposed after 2001, which includes the Malacca Strait Patrols, ReCAAP and the Cooperative Mechanism, promoted cooperation and information sharing but by themselves could not solve piracy. Reasons include historical animosity towards former colonial powers,

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[134] John Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses," *Contemporary Southeast Asia* 26, no. 3 (2004): 480–505.

[135] Rosenberg and Chung, "Maritime Security in the South China Sea: Coordinating Coastal User State Priorities," 56.

[136] Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses," 492.

[137] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–September 30, 2009), 5.

distrust of outside interference and heightened concern over the erosion of state sovereignty. International support provided by the United States, Japan and other nations provided avenues of cooperation in the form of dialogue, exercises and capacity-building programs for regional governments. Reducing the number attacks required a comprehensive, multilayered approach that could not have been done without the cooperation of national, regional and extra-regional support.

Location	2003	2004	2005	2006	2007	2008	2009
Indonesia	121	94	79	50	43	28	7
Malacca Straits	38	38	12	11	7	5	2
Malaysia	5	9	3	10	9	10	14
Myanmar		1				1	1
Philippines	12	4		6	3	6	1
Singapore Straits	2	8	7	5	3	6	6

Table 2.   Piracy Incidents in Indonesia by Location and Year[138]

In conclusion, a series of events conspired to weaken pirates between 2003 and 2005. Table 2 shows that piracy peaked in 2003 for all of Southeast Asia and has steadily declined since then. Of the three littoral governments that comprise the Malacca Strait, Indonesia was the most affected by piracy. The Asian financial crisis increased economic and political instability within Indonesia, which weakened their ability to combat piracy effectively. As the political and economic situation eased, it made possible better authority on land, over water and between its neighbors. As a result, national and multilateral measures tended to produce more operational cooperation in the form of coordinated maritime patrols and airborne surveillance flights, which can be linked to the reduction in piracy. Regional and international efforts focused more on information sharing, capacity building and dialogue between nations, which did not have a direct effect but promoted overall cooperation that could have likely sustained the decline in piracy. An additional factor that might have contributed to the overall reduction in attacks was the December 2004 Tsunami that hit parts of Southeast Asia. Indonesia was

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[138] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–September 30, 2009), 5.

hit particularly hard, and this resulted in the destruction of many villages and fishing boats used by pirates. According to the IMB, there were no incidents noted for two months after the attacks, although attacks did later resume.[139]

Maintaining the momentum requires sustaining and strengthening the multi-layered approach to anti-piracy efforts that have already been put in place. The Asian financial crisis is an example of how swiftly economic problems can manifest themselves into political and security issues, possibly echoing the current global economic downturn.

Today, the Indonesian Navy lacks the required number of vessels to carry out security patrols along its vast coastline. Of those they have, at any given time, only 25% are serviceable.[140]   Without continued financial support and backing for anti-piracy initiatives, it is unlikely that they can maintain what vessels they have, providing incentives for pirates to strike. A bellwether of the current economic downturn in Southeast Asia is a "ghost fleet" numbering hundreds of empty ships, anchored of the coast of Singapore waiting to be used, evidence that the economic crisis has begun to affect the region severely.[141]   Only time will tell if the "Asian model" of piracy continues to work.

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[139] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships, Annual Report* (United Kingdom, January 1–December 31, 2005), 15.

[140] Raymond, "Piracy and Armed Robbery in the Malacca Strait," 36.

[141] Peter Sharp, "Ghost Fleet Reveals Dire State of Ocean Trade," *Sky News*, September 18, 2009, http://news.sky.com/skynews/Home/World-News/Singapore-Ghost-Fleet-World-Trade-Cargo-Ships-Stationary-In-Southern-Malaysia-Due-To-Recession/Article/200909315383804?f=rss (accessed September 29, 2009).

III. PIRACY IN THE HORN OF AFRICA

A. CHAPTER INTRODUCTION

This chapter briefly addresses the historical background of piracy in the waters off the coast of Somalia and the Gulf of Aden and then examines why it spread throughout the region to become a focal point for international counter-piracy operations. It begins by analyzing the typology of piracy in this region, causal factors, and the response to piracy by regional, extra regional states and the outcomes of their actions to date.

The waters of the Indian Ocean and the Gulf of Aden are critical sea lines of communication that link together Europe and the Middle East. Over 20,000 ships a year pass with 12% of the world's oil supply. According to the annual piracy report from the IMB, in 2008, there were "111 incidents of piracy reported for the east coast of Somalia and the Gulf of Aden, an increase of over 200% compared to 2007."[142] Of those, "42 vessels were hijacked and 815 crew members taken hostage by Somali pirates."[143] Figure 1 illustrates, when compared to other regions in the world, the area off the coast of the Horn of Africa has become one of the world's most dangerous waters for piracy.

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[142] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships, Annual Report* (United Kingdom, January 1–December 31, 2008), 26.

[143] Ibid.

Figure 1.   IMB Piracy Reporting Center[144]

B.   HISTORY OF PIRACY IN THE HORN OF AFRICA

Similar to Southeast Asia, piracy in the Horn of Africa and Indian Ocean has a history that dates back hundreds of years. In the 17ᵗʰ century, European trading companies, such as the Dutch East India Company and the Honorable East India Company (HEIC) maintained trading outposts throughout Asia and the Indian Ocean in places, such as the Cape of Good Hope, India and China.[145]   The increase in trade between Europe, Asia and Africa provided indigenous and European pirates greater opportunities to attack ships. Sea trade in this region covered enormous distances and required bases of operations for pirates to rest and refit. European and colonial pirates seeking access to the Red Sea and Indian Ocean used the island of Madagascar as a base of operations to launch attacks on merchant ships that frequently travelled throughout the region. One of the most feared pirates in the late 17ᵗʰ century was Kanhoji Angria. A

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[144] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships, Annual Report* (United Kingdom, January 1–December 31, 2008), 6.
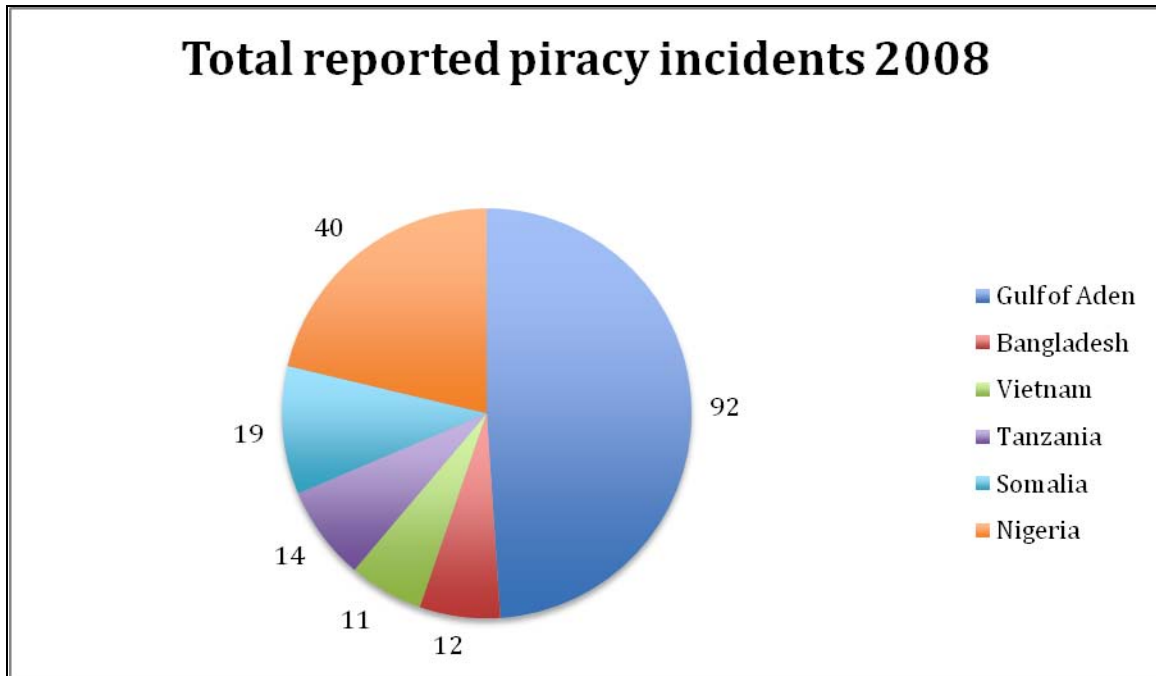
[145] Angus Konstam, *Piracy: The Complete History* (Great Britain: Osprey Publishing, 2008), 250.

native of India, he began attacking ships in the Indian Ocean starting in the 1690s. By 1715, he had amassed a chain of forts along the coast of Bombay to attack vessels of the various trading companies.[146] It would take a sustained naval presence by European navies, such as the British, to counter the commerce raiding and piracy prevalent in the region.

Contemporary piracy in the Horn of Africa has its roots in the civil war and the subsequent failure of the Somali government in 1991. The lack of security on land emboldened foreign fishing fleets to operate closer to shore at the expense of local fisherman and allowed foreign nations to dump toxic materials in their waters.[147] Angry fisherman, claiming to be members of the Somali Coast Guard or the Somali Marines, attacked vessels deemed to be fishing illegally in the waters off Somalia.[148] They often held ships and their crews for ransom until a fee was paid by owners of ships eager to avoid exposure and publicity. According to Peter Lehr, Somali fisher communities began to struggle for three reasons.

- First, foreign trawlers were coming closer to shore, depriving local Somali fisherman of their catch.

- Second, foreign trawlers were using prohibited fishing equipment, including nets with small mesh sizes and sophisticated underwater lighting systems to increase the size of their catch, leaving little fish behind.

- Finally, foreign vessels were attacking Somali fisherman by destroying their equipment and sometimes ramming their boats with larger vessels.[149]

The dumping of illegal waste off the coast of Somalia was an additional concern to fisherman and their communities. According to a United Nations Environmental Report, foreign ships have been suspected of dumping toxic waste, such as uranium, lead and mercury, and other hazardous materials off Somalia's waters for years because it was

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[146] Douglas Batting, *The Seafarers, The Pirates* (Alexandria, VA: Time Life Books, 1978), 86.

[147] Tharoor, "How Somalia's Fisherman Became Pirates."

[148] James Jay Carafano, Richard Weitz, and Martin Edwin Andersen, "Maritime Security: Fighting Piracy in the Gulf of Aden and Beyond," *Heritage Special Report* (June 2009): 9.

[149] Peter Lehr and Hendrick Lehman, "Somalia- Pirates' New Paradise," in *Violence at Sea: Piracy in the Age of Global Terrorism*, ed. Peter Lehr (New York: Routledge, 2007), 13.

cheaper to do so.[150] It is estimated that it costs "$2.50 per tonne to dump hazardous waste in Africa as opposed to $250 per tonne in Europe."[151] In response to reports of illegal dumping, in 2005 a UN technical fact finding mission visited Hafun, Bandar Beyla and Eyl in the Puntland region of Somalia to investigate evidence of toxic waste brought to shore by the Tsunami in December 2004, but no found evidence.[152]

As time progressed, tactics used by pirates evolved from attacking fishing boats close to shore to the use of mother ships to attack larger ships farther out to sea.[153] By 2006, ships were regularly hijacked as far away as 350 km from the Somali coast, as well as the Gulf of Aden, providing evidence of increased technical and organizational skills.[154]

One of the most significant years for piracy was 2008. Of the 293 reported attacks in that year, 92 were recorded in the Gulf of Aden and 19 off the coast of Somalia.[155] Calls for help by the shipping industry and maritime organizations prompted the United Nations Security Council to react by issuing several resolutions that authorized intervention and the use of force by the international community to address piracy. One of the largest seizures ever by Somali pirates was the hijacking of the oil tanker, Sirius Star, in November 2008 that occurred 450 miles southeast of Mombasa, Kenya. It was subsequently taken to the territorial waters off Somalia where it remained until ransom demands by the hijackers were met.[156] This prompted the Chairman of the

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[150] United Nations Environment Programme, *After the Tsunami: Rapid Environmental Assessment*, (Geneva, February 22, 2005), 1–41, 134.

[151] Ibid., 135.

[152] United Nations Environment Programme, *The State of the Environment in Somalia A Desk Study* (Geneva, December 2005), 33.

[153] International Expert Group on Piracy off the Somali Coast, *Piracy off the Somali Coast: Workshop commissioned by the Special Representative of the Secretary General of the UN to Somalis Ambassador Ahmedou Ould-Abdallah* (Nairobi, Kenya, November 10–21, 2008), 14.

[154] Ibid., 14.

[155] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 6.

[156] The Economist, "Ahoy there!; Somalia," November 22, 2008, http://www.lexisnexis.com (accessed February 19, 2009).

Joint Chiefs of Staff, Admiral Michael Mullen, to remark at a news conference, that he was "stunned by the range of it," when referring to the distance at which the Sirius Star was hijacked.[157]

Despite the efforts of the international community, pirate attacks continue. According to the IMB, in the first three months of 2009, the Gulf of Aden and the east coast of Somalia accounted for 61 of the reported 102 attacks on ships in the world. Of 41 incidents reported in the Gulf of Aden, five were hijacked, and in the waters off of Somalia, there were 20 attempted attacks and four hijackings.[158]

C.   TYPES OF PIRACY IN THE HORN OF AFRICA

Piracy in the Horn of Africa and Gulf of Aden is distinct from piracy in other regions for several reasons. First, attacks are exclusively hijackings for ransom and have evolved to become business transactions requiring payouts for the release of a ship and its crew. The increase in reward has led pirates to accept greater risks that include targeting ships farther out to sea and confrontations with maritime forces. The methodology of pirate attacks falls somewhere between the actions of opportunistic sea robbers and organized pirate gangs.[159] Pirates have adopted a simplistic approach to selecting vessels for attack, as evidenced by their haphazard targeting of coalition warships, but in their formidable ship boarding skills they appear to be closer in organization to opportunistic sea robbers. Their ability to execute attacks far from shore and their use of land-based support in ransom negotiations also indicates a level of organization and sophistication indicative of an organized pirate gang.

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[157] Robert F. Worth and Mark McDonald, "Pirates Said to Take Supertanker Back to Somalia," *New York Times*, November 18, 2008, http://www.nytimes.com/2008/11/18/world/africa/18iht-pirates.4.17941197.html (accessed October 5, 2009).

[158] ICC International Maritime Bureau*, Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–March 31, 2009), 24.

[159] Martin Murphy, *Small Boats, Weak States, Dirty Money: Piracy & Maritime Terrorism in the Modern World* (London: Hurst Publishers, 2009), 102.

Second, the proliferation of small arms in Africa has given pirates an advantage when attacking a vessel and holding its crew hostage. Pirates are well armed and consistently use weapons, such as machine guns and rocket-propelled grenades (RPGs) to take over a target, defend themselves, and intimidate the crew.

Third, pirates continue to evolve. According to Raymond Gilpin, the pirates' business model has progressed over time to include seven phases of operations: "reconnaissance and information gathering; coordinated pursuit; boarding and takeover; steaming to safe areas; negotiations; ransom payment; and disembarkation and safe passage."[160] This evolution required building infrastructure and logistical support from local communities to provide intelligence, fuel and needed supplies. As ships moved further from land to avoid being hijacked, Somali pirates adapted by using captured vessels as "mother ships" to support smaller boats or skiffs to increase their range. Often working together in groups, they attack slow moving targets with low freeboards using grappling hooks and ladders to board a vessel. Once hijacked, the vessel is towed to an anchorage within sight of land where pirates negotiate ransom demands for the return of the crew.

D. CAUSES OF PIRACY IN THE HORN OF AFRICA

1. Legal and Jurisdictional Weakness

Legal and jurisdictional weakness is an outgrowth of statelessness that exists in Somalia. The inability to apprehend and try suspects within its own legal institutions has put the burden of detaining and trying suspects in a court of law on its regional neighbors that also have weak national legal systems and maritime forces. This has been an enabling factor that has given pirates an advantage when conducting attacks. Legal actions taken by Yemen so far have been limited because of lack of resources and international support. The United States has been unable to reach bilateral legal agreements with Yemen to turn over suspected pirates for trial because of concerns over

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[160] Raymond Gilpin, *Counting the Costs of Piracy*, United States Institute of Peace Working Paper, (Washington, D.C., 2007): 8.

the strength of their legal system.[161] European Union member states have been reluctant to sign anti-piracy legal agreements, which provide for the detention and adjudication of suspected pirates because of concerns over European human rights legislation that comes into conflict with Yemen's use of the death penalty.[162]

Conflicts between the national laws of maritime forces and international law have also been cited as a way for pirates to exploit weakness in anti-piracy efforts. In April 2009, the Canadian warship HMCS Winnipeg seized a boat with suspected pirates and weapons onboard. Despite having jurisdiction under international and Canadian law, the pirates were disarmed and subsequently released because the Canadian government believed they lacked jurisdiction.[163] Until participating nations are able to update their laws, pirates will continue to exploit this disorder.

Several methods by the international community have been used to counter this confusion. These include Memorandums of Understanding (MOUs) and United Nations resolutions. In early 2009, the United States and Great Britain agreed to sign MOUs with Kenya and the Seychelles that provided maritime forces with the ability to turn over suspected pirates and try them in local courts of law. Another method employed has been the use of United Nations Security Council Resolutions (UNSCR). Prior to United Nations legal intervention in 2008, foreign warships pursuing suspected pirate vessels were unable to enter Somali territorial waters. Once inside, pirates were free from pursuit, creating safe havens that allowed pirates to operate unrestricted, free from retribution. In response, UNSCR 1816 established a framework that provided states, in cooperation with the Transitional Federal Government (TFG), the ability to enter the territorial waters of Somalia to repress acts of piracy and armed robbery at sea.[164] Despite UNSCRs providing states with the authority to act, it is often not enough.

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[161] Richard Meade, "EU Close to Legal Framework on Piracy Prosecutions," February 27, 2009, Lloyd's List, http://www.lloydslist.com/ll/news/viewArticle.htm?articleId=20017622826&src=rss (accessed November 11, 2009).

[162] Ibid.

[163] CBC News, "Canada Seek to Change Policy on Pirate Prosecution: Mackay," *CBC News*, May 21, 2009, http://www.cbc.ca/world/story/2009/05/21/canada-piracy-kenya894.html (accessed October 4, 2009).

[164] United Nations Security Council Resolution 1816, *Security Council Condemns Acts of Piracy, Armed Robbery off Somalia's Coast* (New York, Department of Public Information, 2008).

2.   Favorable Geography

The geography of Somalia plays a key role that enables pirates to execute attacks and is significant for several reasons. First, Somalia occupies almost 2,000 miles of mostly unsecured coastline that borders the Gulf of Aden and the Indian Ocean, giving pirates a wide berth to hijack and hold ships. This provides numerous areas from which pirates can conduct attacks without fear of retribution from outside countries. Second, Somalia occupies a strategic location that lies between the Red Sea and the Straits of Bab al Mandeb in the north, the Gulf of Aden in the east and the Indian Ocean to the south, a gateway for world commerce. To the north, Yemen encompasses the northern boundary that forms the Gulf of Aden. According to the U.S. Department of Energy, "in 2006, as many as 3.3 million barrels of oil per day were transiting the Bab el Mandeb strait between the Gulf of Aden and the Red Sea,"[165] making this region an economic and strategic necessity for many nations. Third, there are limited options if a shipping company chooses to avoid the Gulf of Aden. The only alternative requires ships to round the Cape of Good Hope near South Africa, adding time, fuel and crew costs.

Unsecured coastlines of both Somalia and Yemen provide numerous areas for pirates to conduct operations and receive support. In Somalia, two primary bases of operation include facilities in the Puntland district of Eyl in Northeast Somalia and the Mudug district of Hararderra (Xarardheere).[166] Other bases include Garad, Hobyo and Mogadishu.

The Yemeni coastline also provides numerous areas for pirates to operate. It is believed that pirates in the Gulf of Aden have been receiving support from individuals that live along the coast. According to Admiral Mark Fitzgerald, a NATO commander and U.S. naval officer, logistics supplies, such as boat engines and fuel have been supplied to pirates.[167]

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[165] Lauren Bloch, Christopher Blancard and Ronald O'Rourke, *Piracy off the Horn of Africa*, CRS Report for Congress, R40528 (Washington, D.C., 2009), 10.

[166] Ibid., 6.

[167] Wendell Roelf, "Work with Yemen Gov't on Somali Piracy: U.S. Admiral," *Reuters*, March 9, 2009, http://af.reuters.com/article/topNews/idAFJOE5280JG20090309 (accessed November 11, 2009).

Lastly, weather is another geographic factor that can play a vital role in the frequency of attacks. The monsoon season in the Indian Ocean lasts from April to September, which is characterized by high winds and seas.[168] This makes navigating smaller ships difficult, especially skiffs and smaller boats used by pirates in attacks. In September 2009, changing weather patterns prompted Coalition Maritime Forces to issue an advisory to all mariners warning of an expected increase in pirate attacks.[169]

3. Conflict and Disorder

In the Horn of Africa, conflict and disorder continues to play a significant role in enabling pirates to stage operations and attacks ships throughout the region. Piracy that has plagued Somalia and spilled over into the Horn of Africa over the last few years is a direct result of the failure of the Barre regime in 1991. In the past two years, it has ranked first in Foreign Policy's annual listing of failed states.[170] In 1988, clan-based rivalries, economic and political issues led to warfare between clans in the northern part of the country and the south.[171] This led to retaliation and repression by the Barre government, which precipitated its decent into anarchy. In 1991, General Barre fled Mogadishu as fighting raged throughout the city leaving behind various clan-based militias to rule the city. In addition to the violence, a severe drought gripped the country leading to widespread hunger, which led to intervention by the United States and the United Nations in 1992.[172]

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[168] International Expert Group on Piracy off the Somali Coast, 14.

[169] Mass Communication Specialist First Class Brianna K. Dandridge, "Pirate Attacks on the Rise off Somalia," *Navy.mil*, September 29, 2009, http://www.navy.mil/search/display.asp?story_id=48619 (accessed October 5, 2009).

[170] Foreign Policy, "The Failed States Index 2009," http://www.foreignpolicy.com/articles/2009/06/22/the_2009_failed_states_index (accessed October 5, 2009).

[171] Mohamed Sahnoun, *Somalia: The Missed Opportunities* (Washington, D.C.: United States Institute of Peace, 1994), 5.

[172] Joint History Office, Office of the Chairman of the Joint Chiefs of Staff, *The Effort to Save Somalia* (Washington, D.C.: Office of the Chairman of the Joint Chiefs of Staff, 2005), 5.

Similar to Somalia, Yemen faces difficulties that make it at risk for becoming a failed state as well. Domestic concerns include water depletion, declining oil revenues, rising fuel prices, unrest in the south and terrorism, all which have combined to weaken the government of Yemen.[173] Terrorists have used the instability to conduct operations in Yemen's waters. For example, in 2000, Al Qaeda-linked militants attacked the USS Cole in the Yemeni port of Aden that killed 17 sailors and wounded numerous others. In October 2002, terrorists attacked the MV Limburg off the coast of Yemen spilling 90,000 gallons of oil killing one crewman.

4. Underfunded Law Enforcement and Lack of Security

In the Horn of Africa, law enforcement and security operations are critical to the fight against piracy because of large coastlines and the amount of area to be covered. In Somalia, the absence of security has had a significant effect on its rapid rise and growth. The absence of law enforcement and security has allowed foreign fishing vessels to exploit Somali fishing resources and permitted nations to dump hazardous material in their waters. Prior to 1991, the protection of Somali waters belonged to the Somali Navy, which consisted of several small patrol boats maintained by the Soviet Union. Soon after the Soviets withdrew, the ships that remained soon fell into disrepair.[174] Subsequent efforts at establishing a maritime presence through private security companies have failed as well. For example, in November 2005 the U.S. security firm TOPCAT signed a $50-$55 million contract with the TFG to target Somali mother ships, but was unable to begin operations because of the arms embargo on Somalia.[175]

One reason why Yemen has had difficulty addressing piracy is because it does not have enough patrol boats to secure its waters. Consisting of 1,000 people and 40 boats,

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[173] Jeremy M. Sharp, *Yemen: Background and U.S. Relations*, CRS report for Congress, RL 34170 (Washington, D.C., 2009), 1–17.

[174] Lehr and Lehman, "Somalia-Pirates' New Paradise," *in Violence at Sea: Piracy in the Age of Global Terrorism*, 13.

[175] Roger Middleton, *Piracy in Somalia*: *Threatening Global Trade, Feeding Local Wars*, Chatham House briefing paper (London, UK, October 2009), 11.

Yemen's coast guard is not large enough to patrol the entire coastline and has had to restrict its operations to Aden harbor until larger boats can be acquired to operate on the open ocean.[176]

5. Permissive Political Environments

For countries in the Horn of Africa, seaborne trade is an essential connection to the global community and their economies. State failure and lax political environments take advantage of this link and provide the perfect opportunity for piracy to grow. Bribes are often required to gain intelligence on the location of ships or the support of local officials to look the other way when providing arms and supplies to pirates. Without local support, pirates would be unable to execute attacks at sea or coordinate ransoms on land for crews being held hostage. In Puntland, one of the major logistical and staging areas for pirates in the north, corruption has reached all levels of society and government.[177] According to Roger Middleton, it is significant that Puntland is the home of President Abdullahi Yusuf because it is likely that the Somali government and clan structure benefit from organized piracy.[178] In the 2008 Corruption Perceptions Index, which measures the perception of corruption in 180 countries, Somalia, Kenya, Tanzania, Yemen and Djibouti all scored in the bottom half with Somalia, Kenya and Yemen ranking 180, 147 and 141, respectively.[179]

6. Cultural Acceptability

Somalia does not have a cultural history of piracy but it has become acceptable because chronic poverty, starvation and lawlessness have left ordinary Somalis with little alternative. In some communities, pirates are viewed as heroes. In a phone interview with the BBC, Dahir Mohamed Hayeysi, a local pirate, stated that in his community

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[176] Kevin Whitlaw, "No Calm Waters for the Coast Guard," *US News and World Report*, March 4, 2006, http://www.usnews.com/usnews/news/articles/060304/4yemen1.htm (accessed November 10, 2009).

[177] International Expert Group on Piracy off the Somali Coast, 17.

[178] Middleton, *Piracy in Somalia*: *Threatening Global Trade, Feeding Local Wars*, 5.

[179] Transparency International, Coalition Perception Index, 2008, http://www.transparency.org/policy_research/surveys_indices/cpi/2008 (accessed November 12, 2009).

pirates are seen as heroes. "We have local support; most of the people here depend on pirates directly or indirectly. Because if there is a lot of money in the town they can get some through friendship, relatives or business."[180]   In the town of Eyl in Punland, hijacked ships are often anchored in sight of coastal villages where pirates receive fuel, supplies and reinforcements from local residents.

7.   Promise of Reward

The payment of ransom to secure the release of hostages and their vessels adds another layer of complexity that must be addressed.[181]   Ransom payouts reinforce the idea that piracy pays. The prospect of easy money lures new recruits and encourages the cycle of hijackings and ransom payments. If shipping companies choose to withhold payment, the social and financial costs could severely limit seaborne trade and the delivery of humanitarian assistance desperately needed in the region.

When faced with endemic poverty, hunger and lawlessness on land, the risks of being caught or killed while attacking ships at sea must seem minor when compared to the potential return. In Somalia, the average income is estimated to be around $650 per year, making the risk-to-reward ratio that attracts pirates an easy choice. In 2008, an average ransom paid for the return of a ship and its crew was between half-a-million and $2 million.[182]   For an entry-level pirate, his share of the take is likely to yield in excess of $10,000 depending in the size of the ransom.[183]   It is estimated that ransom payments paid out by shipping companies were between $18–$30 million dollars.[184]   In Puntland, ransom money has provided social mobility for many pirates. "They have money; they

[180] Mohamed Olad Hassan, "It's a Pirate's Life for Me," *BBC News*, April 22, 2009, http://news.bbc.co.uk/2/hi/africa/8010061.stm (accessed October 21, 2009).

[181] Freedom C. Onuoha, "Sea Piracy and maritime security in the Horn of Africa: The Somali Coast and Gulf of Aden in Perspective," *African Security Review*, *Institute for Security Studies* 18, no. 3 (September 2009): 37.

[182] Middleton, *Piracy in Somalia*: *Threatening Global Trade, Feeding Local Wars*, 5.

[183] Brian Wilson, "Effectively Confronting a Regional Threat," *African Center for the Constructive Resolution of Disputes, Conflict Trends,* no. 1 (2009): 13.

[184] Ibid., 5.

have power and they are getting stronger by the day,"[185] says Abdi Farah Juha, a resident of Garowe. "They wed the most beautiful girls; they are building big houses; they have new cars and guns."[186] Until an alternative to paying ransoms can be found, ship-owners continue to fuel the demand for hijackings and ransoms.

E. THE RESPONSE TO PIRACY IN THE HORN OF AFRICA

The response to piracy in the Horn of Africa and Gulf of Aden so far has emphasized international efforts to combat piracy. The reasons are as varied as the individual states and organizations that have responded to the United Nations call for assistance. For the United States, maritime strategy is based on freedom of the seas. For many nations, their economies are dependent upon the transportation of goods by sea, and disruption can have lasting economic and security implications. Reasons behind the multinational response include: 1) disruption of trade; 2) disruption of World Food Program shipments to Somalia; 3) the potential for environmental damage; and 4) potential terrorist threats to the region.[187]

To date, the response to piracy in the Indian Ocean and the Gulf of Aden has included national, bilateral, regional and international efforts. In addition, the lack of security on land has required the services of private security companies and the actions of the shipping industry as well.

1. National Efforts

The national response to piracy by countries, such as Kenya, Somalia and Yemen, have met with little success in addressing legal and jurisdictional weakness, primarily because few resources are available, such as naval ships, personnel and infrastructure when compared to land-based forces. Despite these setbacks, efforts have been made to combat piracy.

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[185] Robyn Hunter, "Somali Pirates Living the High Life," *BBC News*, October 28, 2008, http://news.bbc.co.uk/2/hi/africa/7650415.stm (accessed October 21, 2009).

[186] Ibid.

[187] Middleton, *Piracy in Somalia*: *Threatening Global Trade, Feeding Local Wars*, 8.

a. Kenya

According to Paul Wambua, African navies "are not thought to be as necessary as other branches of the armed forces and are often considered last in budgetary allocations."[188] The Kenyan Navy, considered one of the best-trained and able forces in East Africa, ranks third in that country's military structure.[189] Despite the limitations, Kenya has a small coastal navy that includes several fast attack and patrol vessels that could be used to interdict pirates but so far has played a limited role because participation has been limited to legal agreements between the United States and other coalition forces that detain and try suspects.[190]

b. Somali TFG

The Somali TFG has recently taken its first steps to reconstitute its Coast Guard by training 500 officers for a new Somali Coast Guard funded largely by international donations.[191] Until the TFG is able to acquire operable patrol boats, these efforts are ineffectual at best. Somaliland and Puntland have small coast guards as well but are limited by resources. In addition, Puntland and Somaliland have taken limited actions by arresting and imprisoning small numbers of pirates in their territory.

c. Yemen

The Yemeni Navy and coast guard so far has played a small role in securing its side of the Gulf of Aden because of budgetary and logistical concerns. Despite these constraints, efforts have been made to increase the overall strength of the Yemen Navy and coast guard. For example, in 2008, the Yemeni coast guard formed an

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[188] Paul Musili Wambua, "Enhancing Regional Maritime Cooperation in Africa; The Planned End State," *African Security Review*, *Institute for Security Studies* 18, no. 3 (September 2009): 54.

[189] Ibid.

[190] Helmoed-Romer Heitman, "Seychelles, Contributes to Anti-piracy Efforts," *Jane's Defense Weekly*, May 7, 2009, http://search.janes.com.libproxy.nps.edu (accessed October 18, 2009).

[191] Press TV, "Somali Navy becomes Operational," September 9, 2009, http://www.presstv.ir/detail.aspx?id=105719&sectionid=351020501 (accessed December 4, 2009).

anti-piracy unit with 1,600 Special Forces soldiers and 16 patrol boats purchased to combat piracy.[192]   In 2009, the United States provided funding for the purchase of two patrol boats and radios to augment the Yemeni Navy.[193]

National efforts so far have been insufficient to combat piracy because of the lack of security, resources and political instability within the region. Pirates have been able to exploit these weaknesses and as a result, have been able to establish safe havens where they can plan and stage attacks without fear of government intervention.

2.   Bilateral Efforts

Efforts towards bilateral cooperation have been limited and have contributed to strengthening legal and jurisdictional weaknesses found on land and at sea. In January 2009, Kenya and the United States signed a MOU that allowed captured suspected pirates to be turned over, tried in their courts and imprisoned if found guilty. This prevents having to transfer suspects back to the flag countries of the vessel attacked or the warship that caught them. The British and the European Union have signed similar agreements with Kenya as well.[194]

Puntland has made efforts towards working with coalition forces. For instance, EU NAVFOR forces have signed legal agreements that permit suspected pirates to be turned over to regional authorities similar to agreements signed by Kenya. Other efforts include NATO and other international partners recently establishing a close working relationship with officials of Puntland's regional administration to identify pirates better and to reduce confrontations with local fisherman.[195]   According to NATO, the HMS Cornwall and the USS Donald Cook recently embarked Coast Guard officers in an effort

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[192] Zaid al-Alaya and Mohammed al-Kibsi, "Yemen Forms Anti-piracy Force," *Yemen Observer*, September 25, 2008, http://www.yobserver.com (accessed November 10, 2009).

[193] Sharp, *Yemen: Background and U.S. Relations*, 15.

[194] Maritime Security Center Horn of Africa, "Horn of Africa European Union Signs Prosecution Agreement with Kenya, March 6, 2009, http://www.mschoa.org/display.aspx?articlename=49 (accessed October 18, 2009).

[195] NATO Operation Ocean Shield, "NATO Works with Somali Authorities," http://www.manw.nato.int/page_operation_ocean_shield.aspx#NATO_works_with_Somali_authorities (accessed October 18, 2009).

to identify areas that pirates operate out of as a way to curtail illegal activity.[196] Additional bilateral efforts between nations include ongoing operations between the Seychelles Coast Guard and EU Naval Forces Operation ATALANTA to track and detain suspected pirates and a recent proposal for joint naval patrols between Kenya and Tanzania to curb piracy in their waters.[197]

The Bilateral response between regional governments in the Horn of Africa has been largely ineffective and insufficient to combat piracy. This is due to the lack of cooperation, resources and political instability within the region. Legal agreements between Kenya and coalition maritime forces have provided a short-term solution for the legal and jurisdictional weakness found at sea but do not address causes of piracy on land. Bilateral agreements that emphasize cooperation and communication need to be encouraged between regional governments if piracy is to be reduced.

3.   Regional Efforts

Regional cooperation has started to play an important role in organizing and providing support to nations affected by piracy. Causal factors addressed by their efforts include underfunded law enforcement and lack of security.

On January 31, 2009, 17 regional governments attended the IMO sponsored Djibouti Code of Conduct that included Djibouti, Ethiopia, Kenya, Madagascar, the Maldives, the Seychelles, Somalia, Yemen and Tanzania. The conference aimed to find solutions to the crisis. The gathering of nations resulted in the adoption of a code of conduct for states to abide by to help address the problems of piracy and armed robbery. By signing the agreement, participating nations have agreed to cooperate fully through the implementation of several cooperative mechanisms. This includes the sharing and reporting of information through national focal points and information centers, interdicting ships suspected of piracy, ensuring those suspected of piracy are apprehended

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[196] NATO Operation Ocean Shield, "NATO Works with Somali Authorities."

[197] Daily Nation, "Kenya and Tanzania can Fight Piracy Leaders Say," May 17, 2009, http://www.nation.co.ke/News/-/1056/599052/-/u6adxo/-/index.html (accessed October 21, 2009).

and the treatment and care for those who have been subjected to violence.[198] To support the information-sharing component, three regional facilities were proposed that include the Maritime Rescue Coordination Center in Mombasa, Kenya, the Sub-Regional Coordination Center in Dar es Salaam, Tanzania, and a regional maritime information center in Sana'a Yemen.[199] The agreement also left open the possibility of shared operations between countries that include exchanging ship riders and establishing a regional training center in Djibouti.[200]

Efforts so far by regional governments to cooperate on matters of piracy and robbery at sea as outlined in the Djibouti Code of Conduct are promising but insufficient to combat piracy. Many of the nations that signed the agreement have political and economic problems that limit their abilities to address some of the most basic causal factors of piracy. In addition, the Code of Conduct encourages but does not require governments to act, which provides little incentive to cooperate once piracy fades from the headlines. Continued emphasis needs to be placed on the importance of regional approaches to combating piracy.

4.   International Efforts

The international response so far has been predominantly a sea-based approach that has addressed legal and jurisdictional weakness that has spread from land to the ocean by providing security for ships at sea. Actions have been taken through coalition maritime forces and through the introduction of several IMO and United Nations resolutions that have encouraged and provided a legal framework for response.

The IMO, whose main focus has been to "develop and maintain a comprehensive regulatory framework for shipping and its remit today that includes safety, environmental concerns, legal matters, technical co-operation, maritime security and the efficiency of

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[198] International Maritime Organization, "High-level Meeting in Djibouti Adopts a Code of Conduct to Repress Acts of Piracy and Armed Robbery against Ships," http://www.imo.org/newsroom/mainframe.asp?topic_id=1773&doc_id=10933 (accessed October 18, 2009).

[199] Bloch, Blancard and O'Rourke, *Piracy off the Horn of Africa*, 18.

[200] International Maritime Organization, "High-level Meeting in Djibouti Adopts a Code of Conduct."

shipping,"[201] has issued several documents relevant to ship owners and nations tackling piracy in the Horn of Africa. These include the International Ship and Port Facility Security Code (ISPS), IMO resolution A1002. (25) and the promulgation of best practices to deter piracy supported by the shipping industry in MSC.1/Circ. 1322.

The ISPS code was designed to address the security requirements for governments, ports and shipping companies. Its purpose has been to provide a "standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships at port facilities."[202] For ships' captains, this has provided guidance on how to implement ship security plans and identified requirements to have onboard equipment able to provide a credible deterrent to hijackers.[203]

In 2007, the IMO assembly adopted IMO resolution A1002 (25), which called for action by member states, the Somali TFG and regional nations to address piracy off the coast of east Africa. It also called for the TFG to advise the United Nations Security Council that it consented to a military presence in its territorial waters, laying the groundwork for future resolutions by the UN that provide for intervention.[204]

Later, in February 2009, the IMO issued MSC.1/Circ. 1322, which endorsed a comprehensive plan that addressed best management practices for the shipping industry. Its purpose was to provide guidance on security to shipmasters prior to transiting inside and outside the Gulf of Aden.[205] As a result, the shipping industry as a whole has been better able to deter pirate attacks by providing their own security and has been a factor in reducing the number of successful pirates.

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[201] International Maritime Organization, "Introduction to IMO," http://www.imo.org/ (accessed October 21, 2009).

[202] International Maritime Organization, "IMO Adopts Comprehensive Maritime Security Measures," http://www.imo.org/ (accessed October 21, 2009).

[203] Ibid.

[204] International Maritime Organization, *Resolution A.1002(25), Piracy and Armed Robbery against Ships in Waters off the Coast of Somalia* (Assembly 25th session, December 2007): 1–8.

[205] International Maritime Organization, *Piracy and Armed Robbery against Ships in Waters off the Coast of Somalia*, MSC.1/Circ.1332, Annex 1 (June 16, 2009): 1–11.

The United Nations Security Council has played a pivotal role in responding to piracy. At the urging of the IMO, and in response to the increase in piracy and armed robbery of vessels in the territorial waters and high seas off the coast of Somalia, the United Nations Security Council (UNSC) introduced resolution 1816. For a period of six months, 1816 authorized states cooperating with the TFG to "Enter the territorial waters of Somalia for the purposes of repressing acts of piracy and armed robbery at sea."[206] Subsequent resolutions, 1838 and 1846, authorized actions for a year and allowed participating nations the ability to "use all necessary means, such as deploying naval vessels and military aircraft, as well as seizing and disposing of boats, vessels, arms and related equipment used for piracy to fight piracy and armed robbery at sea off the Somali coast."[207] Resolution 1851 went a step further by allowing cooperating states to take measures on land and at sea.[208] This opened the door to intervention by international coalitions including CTF-151, NATO, EU NAVFOR and various nations participating outside of coalition forces.

a. *Task Forces*

Maritime Task Forces by the United States, European Union and NATO have played a critical role in the fight against piracy by providing security and communication for merchant ships transiting the region. In August 2008, in response to increased attacks in the Gulf of Aden, CTF-150 and coalition forces established a Maritime Security Patrol Area (MSPA) to protect merchant shipping from pirate attacks, which subsequently helped to reduce the success rate for pirates.[209] In January 2009, CTF-151 was established as a multinational task force with a mandate to conduct anti-piracy missions to deter and disrupt pirate activities in the Gulf of Aden and the waters of

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[206] UNSCR 1816.

[207] United Nations Security Council Resolution 1846, *Security Council Authorized States to Use Land-Based Operations in Somalia May Use 'All Means' to Fight Piracy off the Somali Coast for 12-Month Period* (New York, Department of Public Information, 2008).

[208] United Nations Security Council Resolution 1851, *Security Council Decides States, Regional Organizations May Use 'All Means' to Fight Piracy off the Somali* (New York, Department of Public Information, 2008).

[209] Lauren Ploch, "Piracy off the Horn of Africa," *CRS Report for Congress*, R40528, Washington D.C., April 24, 2009, 16.

the Indian Ocean. CTF-151 consists of ships and personnel from the United States, the United Kingdom, Canada, Denmark, France, Germany, Greece, Italy, Malaysia, Netherlands, Saudi Arabia, Spain, Turkey and Yemen.[210]

In December 2008, The EU organized operation ATALANTA to provide protection for vessels carrying World Food Program deliveries to Somalia and other vulnerable vessels in the Gulf of Aden and off the Somali coast. They have been authorized to "take the necessary measures, including the use of force, to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery, which may be committed in the areas where it is present."[211] EU NAVFOR has also established an online center know as the Maritime Security Center-Horn of Africa. Its purpose is to provide mariners, ship owners and agents a secure site to "update positions of their vessels and receive information and guidance designed to reduce the risk of pirate attacks."[212] Similar information sharing services for mariners include a UK Maritime Trade Operations office in Dubai and the Maritime Liaison Office in Bahrain (MARLO). EU NAVFOR has also set up an Internationally Recommended Travel Corridor (IRTC) in the Gulf of Aden for merchant shipping to travel through that is regularly patrolled by maritime forces.

Since 2008, NATO has had several standing maritime forces conducting anti-piracy operations in the Horn of Africa region. The most recent NATO maritime force, called Operation Ocean Shield, began operations on August 17, 2009. Its mandate entails four tasks.

1.   Deter, disrupt and protect against pirate attacks, rendering assistance to ships in extremis as required.

2.   Actively seek suspected pirates and prevent their continued activity through detention, seizure of vessels and property, and the delivery of suspects and evidence to designated law enforcement authorities in accordance with NATO agreements.

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[210] Ploch, "Piracy off the Horn of Africa," 16.

[211] Catherine Gliere, *EU Security and Defense: Core Documents 2008, Volume IX*, (France: Institute for Security Studies, European Union, July 2009), 411.

[212] Maritime Security Center Horn of Africa (MSC-HOA), http://www.mschoa.eu/About.aspx (accessed October 18, 2009).

3. Facilitate and support the development of regional states' capacity to conduct effective counter-piracy operations, in coordination with other related international efforts.

4. Coordinate NATO operations and initiatives with coalition maritime forces, EU naval forces, and other non-NATO forces conducting piracy operations off the Horn of Africa.[213]

b. *Contact Group*

One of the key provisions of UNSCR 1851 encouraged "all states and regional organizations fighting piracy and armed robbery at sea off the coast of Somalia to establish an international cooperation mechanism to act as a common point of contact between and among states, regional and international organizations on all aspects of combating piracy and armed robbery at sea off Somalia's coast."[214] This led to the formation of the Contact Group on Piracy off the Coast of Somalia established on January 14, 2009. Six areas of focus were identified for nations to address. These include: 1) improving operational and information support to counter-piracy operations, 2) establishing a counter-piracy coordination mechanism, 3) strengthening judicial frameworks for arrest, prosecution and detention of pirates, 4) strengthening commercial shipping self-awareness and other capabilities, 5) pursuing improved diplomatic and public information efforts, and 6) tracking financial flows related to piracy.[215] In addition, four working groups were established to address individual areas of focus. These include the following.

-   Working Group 1: Military and Operational Coordination, Information Sharing, and capacity Building, chaired by the United Kingdom.

-   Working Group 2: Judicial Issues, chaired by Denmark.

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[213] NATO Shipping Center Counter Piracy Operations Ocean Shield, http://www.shipping.nato.int/CounterPir (accessed October 17, 2009).

[214] UNSCR 1851.

[215] U.S. Department of State, Diplomacy in Action, "Contact Group on Piracy off the Coast of Somalia," January 14, 2009, http://www.state.gov/t/pm/rls/othr/misc/121054.htm (accessed October 6, 2009).

- Working Group 3: Strengthening Shipping Self-Awareness and Other Capabilities, chaired by the U.S.

- Working Group 4: Public Information, chaired by Egypt.[216]

In early September 2009, Working Group 3, chaired by the United States met at the United Nations to sign the "New York Declaration" on best management practices designed to protect commercial vessels from pirate attacks. By agreeing to these measures, the United States and other flag states, such as Cyprus, Japan, Singapore and the United Kingdom, have agreed to adopt self-protection methods in compliance with the International Ship and Port Facility Code that makes it more difficult for pirates to attack their ships.[217]

5. Shipping Industry and Private Sector Response

The response by the shipping industry and private sector has been guided by the inability of regional states to protect their territorial waters and the insufficient number of maritime forces available to provide security for merchant ships. In testimony given before the House Armed Service Committee, Vice Admiral Gortney stated, "piracy impacts less than 1% of shipping. More than 33,000 vessels a year transit the Gulf of Aden. In 2008, there were 122 attempted attacks, of which 42 were successful."[218] The deceptively low numbers have caused the shipping industry and the private sector to respond in different ways. In some instances, ships have altered their routes to avoid the waters of the HOA and Indian Ocean rather than risk paying ransom payments.[219] Some owners have responded by using defensive measures that include increasing speed, using

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[216] U.S. Department of State, "Contact Group on Piracy off the Coast of Somalia," http://www.state.gov/t/pm/ppa/piracy/contactgroup/index.htm (accessed October 6, 2009).

[217] U.S. Department of State, Diplomacy in Action, "United States Formally Commits to Best Practices to Counter Piracy off the Coast of Somalia," September 9, 2009, http://www.state.gov/r/pa/prs/ps/2009/sept/128768.htm (accessed October 18, 2009).

[218] House Armed Services Committee, *Statement of Vice Admiral William E. Gortney, U.S. Navy Commander, U.S. Naval Forces Central Command Before the House Armed Services Committee on Counter-Piracy Operations in the U.S. Central Command Area of Operations,* March 5, 2009, 8.

[219] Ploch, "Piracy off the Horn of Africa," 20.

evasive maneuvers, electric fences, fire hoses and the hardening of interior spaces to attack. In 2005, the crew of the cruise ship Seaborne Spirit used Long Range Acoustic Devices (LRADs) that emit loud noises to deter successfully pirates attacking the ship.[220]

A more controversial response has been the willingness of ship owners to pay ransom for the return of their vessels and crews. Typically, after a ship is hijacked, pirates demand an excessively high payment to the shipping company. Through negotiations that often last several months, the pirates and shipping company eventually settle on a price. It is estimated that ransom payments for 2008 totaled almost 30 million dollars.[221] Critics of this practice argue that by paying the ransom, shipping companies and governments are fueling the demand. According to Chris Trelawny, head of security for the IMO, "Ransom prices are going up because the industry is willing to pay out. Ransom payments for an individual vessel have jumped from less than $50,000 five years ago to over $3M today."[222] In the most recent attack on a Spanish Trawler in the Indian Ocean, pirates have demanded 4 million dollars to release the ship and crew.[223] Until credible rescue measures can be addressed, shippers are likely to continue to pay ransoms for the foreseeable future.

Private security firms have played a small but growing role in protecting merchant shipping as well. In Somalia, the representative governments that include the TFG, Puntland and Somaliland have, at various times, contracted private security services to prevent piracy and illegal fishing in their coastal waters. For example, in 2005, the TFG signed a $50 million contract with TOPCAT Marine security to help create a Coast Guard and to target Somali mother ships. The U.S. State Department later blocked their

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[220] Wayne K. Talley, *Maritime Safety Security and Piracy* (London: Informa, 2008), 96.

[221] Carafano, Weitz and Andersen, "Maritime Security: Fighting Piracy in the Gulf and Beyond."

[222] International Maritime Organization Maritime Knowledge Center Current Awareness Bulletin, Volume XXI, no. 7, July 2009, http://www.imo.org/includes/blastDataOnly.asp/data_id%3D26112/CAB153July2009.pdf (accessed October 19, 2009).

[223] Ali Musa Abdi, "Somali Pirates Want 4 mln for Spanish Trawler," *AFP*, October 14, 2009, http://www.google.com/hostednews/afp/article/ALeqM5jhLo6d4s38lgFVwc76Hdev8srKMw (accessed October 19, 2008).

deployment because of a United Nations arms embargo.[224] In 1999, HART security was contracted to provide training and security for a 70-man force in Puntland, funded by the collection of fishing dues, but concluded operations in 2002 due to clan infighting.[225] In late 2008, Blackwater, a private security company used extensively in Iraq and Afghanistan, announced that it too was willing to join the anti-piracy fight by providing escort services using a ship with armed guards and a helicopter to those willing to pay.[226] Private security firms have also provided defensive services to shipping companies that include the use of razor wire, attack dogs, and visual disruption devices, such as non-lethal lasers. The increased vulnerability of crews and ships to attack has provoked discussion on the use of firearms by crewmembers and armed security teams. According to Cyrus Mody of the IMB, "providing security personnel can offer useful advice to ship captains," but questions regarding the use of force and the consequences for firing on pirates remains.[227] Despite best intentions, critics argue that arming crewmembers increases the level of violence endangering crews even further.

Fighting piracy in the Gulf of Aden and the Horn of Africa is an ongoing effort that has been waged mostly through international efforts by maritime forces, shipping companies and private security organizations and is the most visible of all responses to date. Overall, actions taken so far have failed to deter pirates from attacking ships because they have focused on security at sea without addressing the causes of piracy found on land. The number of attacks in 2009 has already surpassed the yearly total for 2008. Where international maritime efforts have been profitable, is their ability to reduce the number of successful hijackings carried out by pirates. Increased security at sea has reduced the vulnerability of ships to pirate attacks. To be effective, international efforts

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[224] Chris Tomlinson, "U.S.: Dyncorp Hired for Somali Peacekeeping," *CORPWATCH Holding Corporations Accountable*, March 7, 2007, http://www.corpwatch.org/article.php?id=14398 (accessed October 19, 2009).

[225] Stig Jarle Hansen, "Private Security & Local Politics in Somalia," *Review of African Political Economy* 118, no. 35 (2008): 585–598.

[226] Associated Press, "Private Security Firms Join Battle against Somali Pirates, *Fox News*, October 26, 2008, http://www.foxnews.com/story/0,2933,444103,00.html (accessed October 19, 2009).

[227] Ibid.

need to focus on the political and economic instability within the Horn of Africa that encourage causal factors related to piracy. Greater emphasis should be placed on land-based solutions that provide disincentives for fisherman and criminals who hijack ships.

6. Outcomes

According to the IMB, the latest piracy statistics show that there has been an overall increase in worldwide pirate attacks. Thus far, in 2009, there have been 306 attacks compared to 293 in 2008.[228] The main driver of this activity can be attributed to increased pirate activity off the coast of Somalia and the Gulf of Aden. What is significant is that as the number of attacks has risen, the success rate has declined. This shows that the international response to piracy so far not matched causal factors. Actions taken have had little effect on deterring piracy but have reduced the effectiveness of pirate attacks. Measures put in place by maritime forces, such as patrols, increased coordination and the implementation of the IRTC, in addition to the adoption of best practices by the shipping industry, has had a significant effect on reducing the number of successful attacks. According to IMB director Pottengal Mukudan, maritime forces operating off the coast of Somalia and enhanced security measures put in place by the shipping community have "made it difficult for pirates to succeed in their attacks."[229] Despite the reduction in successful attacks, piracy remains difficult to combat off the coast of Somali and the Gulf of Aden for several reasons. First, the efforts of international navies fail to address the root causes of piracy that plague Somalia, such as governance, poverty and lawlessness. They have provided a temporary solution to an ongoing regional problem. Second, the lack of resources available to regional nations in the Horn of Africa makes efforts at policing territorial waters difficult to address and provide little deterrence for pirates. Until these issues can be addressed, piracy will continue to be a regional problem that requires an international solution.

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[228] ICC Commercial Crime Services, "Unprecedented Increase in Somali Pirate Activity," October 21, 2009), http://www.icc-ccs.org/index.php?option=com_content&view=article&id=376:unprecedented-increase-in-somali-pirate-activity&catid=60:news&Itemid=51 (accessed October 22, 2009).

[229] Ibid.

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IV.   THE RESPONSE TO PIRACY IN SOUTHEAST ASIA AND THE HORN OF AFRICA

A.   CHAPTER INTRODUCTION

The purpose of this chapter is to draw comparisons between piracy in Southeast Asia and the Horn of Africa (HOA). It first identifies similarities and differences in the causes of piracy in each region. Then it examines the responses to piracy in each region and identifies methods that are most likely to be effective in combating the current crisis of piracy affecting the HOA.

B.   CAUSES OF PIRACY

Despite occurring in different regions of the world, there are similarities and differences between the current crisis of piracy in the HOA and the earlier one in Southeast Asia. These include similar causal factors, such as weak governance, underfunded law enforcement and security, and similar geographic features that are conducive to piracy. Differences include the typology of attacks and the responses generated by regional and extra-regional governments.

One common casual factor in both regions has been the effects of conflict and disorder and its relationship to piracy. In the mid 1990s, Southeast Asia experienced a sharp increase in pirate attacks. Of the states that encompass the Malacca Strait, Indonesia experienced the greatest number. The Asian financial crisis that began in 1997 and spread throughout Southeast Asia had a significant impact on the littoral governments, especially Indonesia. The crisis led to economic and political instability within Indonesia's government, which weakened its ability to control its territory. The inability to control its territory led to increases in poverty, corruption, and the lack of security, all of which are causal factors that allow piracy to prosper. Corrupt officials, such as harbormasters, dockworkers, police and military forces provided pirates with intelligence on the location of ships and provided safe havens to sell their stolen goods. The pace of globalization also brought changes to the economies of Southeast Asia,

which provided benefits for some people but also left many more behind economically.[230] This also influenced the rise in maritime traffic transiting through the straits providing more opportunities to attack ships as overall security was declining.

In Somalia, conflict and disorder has been attributed to state failure and is behind the increasing number of attacks by Somali pirates in the Horn of Africa. Table 3 illustrates the rise in pirate attacks since 2003. As rates of piracy were declining in Southeast Asia, they were increasing in the HOA.

2003	2004	2005	2006	2007	2008	2009
27	13	53	29	59	128	154*

* Pirate attacks beginning January 1–30 September 2009.[231]

Table 3.   Reported actual and attempted attacks in the HOA.[232]

The failure of the Barre government in 1991 led to a civil war that has left the country in ruins and ruled by various clans. Since then, Somalia has been effectively partitioned into three entities, which has made fighting piracy even more difficult for Puntland in the northeast, Somaliland in the northwest, and the Somali Transitional Federal Government in the south. The absence of government and security permitted the exploitation of Somalia's waters by foreign fishing vessels and countries looking to dump illegal waste in their waters. Somali fisherman soon began attacking fishing boats and holding the crew and vessel for ransom, which, over time, grew to include almost any vessel that came within range of Somalia.

Underfunded law enforcement and security has played a key role in enabling piracy by allowing pirates to operate from sanctuaries and the open ocean without fear of being caught. Between 1997 and 1998, the Indonesian defense budget declined by 65%, which limited expenditures on maritime forces needed to combat piracy along the

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[230] Liss, "Maritime Piracy in Southeast Asia," 57.

[231] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–September 30, 2009), 26.

[232] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 6.

straits.[233]   In addition, part of the funding for the military came from outside the Indonesian defense budget and was tied into the economy. This meant that the military was required to find alternative sources of income to upgrade equipment and facilities, and pay the salaries of soldiers. This encouraged members of the military to seek alternative means, which included armed robbery and piracy.

In the HOA, the lack of law enforcement and security has played a significant role in allowing pirates to stage attacks and coordinate ransom payments. Regional navies, such as Kenya, Yemen and Tanzania, have few resources to patrol their territorial waters adequately. Knowing that intervention on land in Somalia is unlikely, pirates have been able to use the coastline of Somalia and Yemen as a staging ground for attacks on ships transiting the Gulf of Aden and the Indian Ocean. Once hijacked, a vessel is transported to an anchorage within sight of land to conduct hostage negotiations. The inability of Somalia to patrol its waters has allowed piracy to expand into the waters of regional neighbors, such as Kenya, Tanzania and Djibouti, disrupting trade and encouraging instability throughout the region.

These regions share similar geographic features, such as coves and inlets that enable pirates to conduct attacks by providing sanctuaries from which they can operate. The waters of both regions are home to chokepoints that world commerce relies on for trade and energy supplies. In the Malacca and Singapore Straits, over 70,000 vessels a year transit through the region that links the Indian Ocean to the South China Sea and North Asia. The size of the region that pirates operate in makes combating piracy a difficult task. For example, Indonesia claims "81,000 km of coastline, 3 million sq km of territorial waters and an additional 3.1 million square km in their EEZ."[234] The size of the area to be patrolled, in addition to the volume of traffic that transits the straits, ensures that pirates have a ready supply of vessels to attack. In addition, on both sides of the Malacca Strait, numerous coves and inlets provide pirates with an avenue for quick escape after an attack.

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[233] Dillon, "Piracy in Asia: A Growing Barrier to Maritime Trade."

[234] Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies,* 70.

The Gulf of Aden sits astride the straits of Bab el Madeb, which connect the Red Sea to the Mediterranean and the Indian Ocean. When combined, the Gulf of Aden and Indian Ocean encompass almost 2.5 million square miles. Somalia occupies almost 2,000 miles of coastline and Yemen, its neighbor to the north, over 1,000 miles, providing numerous areas for pirates to stage attacks, or from which to receive supplies.

What makes piracy different in each region is the typology of attacks. In Southeast Asia, pirates operate along a spectrum of actions that include everything from petty theft of a ship at anchor, to kidnapping for ransom of a crew and its ship. Pirates generally fall into two groups: 1) opportunistic sea robbers, and 2) organized pirate gangs. Opportunistic sea robbers often sneak aboard ships at night, generally at anchor, to steal any valuables that can easily be removed. Attacks are short in duration and require little planning.

In the HOA, in most instances, pirates have adopted a long-term seizure model, which involves boarding a ship, taking the crew hostage, and transporting the vessel to an anchorage within sight of land to conduct hostage negotiations. According to the IMB, for the third quarter of 2009, all of the vessels were hijacked while steaming at sea.[235] Similar to organized gangs, pirates do not discriminate on what kind of ship they target and have been known to attack bulk carriers, containers, fishing vessels, roll-on-roll-off ships, tankers, tugs and yachts.[236] They attack any vessel where the opportunity for financial gain exists.

C. RESPONSES TO PIRACY

Despite similarities in the causes of piracy, the responses have been different in each region. In Southeast Asia, the response by Indonesia, Malaysia and Singapore played a significant role in the reduction of piracy. Measures that have been adopted include national, bilateral and multilateral-level responses with additional support from

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[235] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–September 30, 2009), 27.

[236] Ibid., 23.

extra-regional nations.   In contrast, the response to piracy in the HOA has been characterized mostly by efforts at the international level and within the shipping industry, with little emphasis on national, bilateral or regional action.

1.   National Measures in Southeast Asia

Indonesia, Malaysia and Singapore have all taken national measures that addressed some of the causes of piracy and have played a significant role in its decline. By 2004, as the political and economic climate in Indonesia began to improve, they were better able to focus their efforts on maritime security within the country and the region. For example, reforms and modernization of the Indonesian navy were implemented to increase effectiveness aimed at combating piracy.   In addition, efforts were taken by Indonesia to stop piracy on land by addressing causal factors of piracy, such as poverty and the welfare of people who lived along the coast.   In Malaysia, Indonesia and Singapore, operational measures were introduced, such as establishing command and control centers, increased naval patrols, better training and anti-piracy task forces. When combined, these measures reduced the effects of piracy.

2.   National Measures in the Horn of Africa

Unlike Southeast Asia, national efforts by Somalia and its neighbors, Kenya, Yemen and Tanzania, have met with little success, primarily because of the lack of resources and support from within their countries and the international community. National efforts so far have been limited to attempts at building coastal patrol forces in Somalia and increasing naval capacity in countries, such as Yemen and Kenya in addition to building infrastructure.

3.   Bilateral Efforts in Southeast Asia

Although not as strong as national efforts, bilateral actions between the littoral states have been ongoing for some time and have likely played a role in reducing piracy by improving communication, coordination, and cooperation between regional navies conducting operations.   For example, coordinated patrols and informational exchanges

with an emphasis on communication-sharing capacity have been conducted between Indonesia, Malaysia and Singapore.[237]   Another example was the initiation of operation SURPIC, in 2005, between Indonesia and Singapore to monitor traffic in the Singapore Straits jointly.   Lastly, extra-regional nations, such as India, Japan and Thailand, have participated in bilateral patrols of the strait to increase cooperation and security.

4.   Bilateral Efforts in the Horn of Africa

Efforts toward bilateral cooperation between regional governments have focused mainly on establishing legal and jurisdictional mechanisms for the transfer, detention and trial of suspected pirates and operational cooperation between maritime forces to deter pirates.   In January 2009, Kenya and the U.S. signed a MOU that allowed suspected pirates to be turned over and tried in their courts, and imprisoned if found guilty.   Britain and the EU have signed similar agreements that permit the transfer of suspected pirates to Kenyan courts.   Puntland, where the majority of pirate attacks originate, has reached out to maritime forces by signing similar legal agreements with European Naval Forces and NATO forces.   Additional efforts include joint patrols between EU NAVFOR and the Seychelles Coast Guard, and the proposal for future joint naval patrols between Kenya and Tanzania in an effort to curb piracy in their territorial waters.[238]

5.   Regional Efforts in Southeast Asia

Regional efforts to combat piracy that emphasized operational measures played a significant role in the decline of piracy.   Starting in 1998, one of the first joint efforts was the implementation of a multilateral straits reporting system called STRAITREP, which was a joint Indonesian, Malaysian and Singapore ship-reporting system that emphasized information sharing and cooperation amongst straits nations.[239]   Later, trilateral coordinated surface patrols were initiated between the littoral states called the Malacca

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[237] Young and Valencia, "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility," 279.

[238] Daily Nation, "Kenya and Tanzania can Fight Piracy Leaders Say," May 17, 2009, http://www.nation.co.ke/News/-1056/599052/-/u6adxo/-/index.html (accessed October 21, 2009).

[239] Ho, "Operationalising the Regional Maritime Security Initiative."

Strait Sea Patrols (MALSINDO) to reduce piracy and smuggling activities by conducting coordinated patrols in the waters of participating nations. In 2005, joint air patrols were added to strengthen regional efforts under the EIS program. According to Pottengal Mukundan, director of the IMB, coordinated patrols between the littoral states had an enormous impact on the decline of piracy because pirates could no longer cross-jurisdictional boundaries without being pursued.[240] Other regional efforts that promoted cooperation and information-sharing mechanisms but did not have a direct effect in the decline of piracy included regional actions by ASEAN, ARF and ReCAAP, which aimed at strengthening cooperation and communication between nations.

6. Regional Efforts in the Horn of Africa

Regional efforts to combat piracy, such as the Djibouti code of conduct, have yet to show results, but have begun to play a role in organizing, coordinating and providing support to regional nations affected by piracy. By signing the code of conduct, participating nations have agreed to several cooperative mechanisms that include sharing and reporting information through national focal points and information centers, interdicting ships suspected of piracy, ensuring those suspected of piracy are apprehended, and the treatment and care of those who have been subjected to violence.[241] Just as important, the agreement also left open the possibility of shared operations between countries, which include exchanging ship riders and the establishment of a regional training center in Djibouti.[242]

7. International Efforts in Southeast Asia

International efforts that emphasized cooperative mechanisms, such as the Regional Maritime Security Initiative proposed by the United States, met with significant resistance by Indonesia and Malaysia because of concerns over their sovereignty and

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[240] Whaley, "Regional Cooperation's Unsung Success Story: Fighting Piracy in the Malacca Strait."

[241] International Maritime Organization, "High-level Meeting in Djibouti Adopts a Code of Conduct to Repress Acts of Piracy and Armed Robbery against Ships," http://www.imo.org/newsroom/mainframe.asp?topic_id=1773&doc_id=10933 (accessed October 18, 2009).

[242] Ibid.

external intervention. This prompted Indonesia, Malaysia, and later Singapore to coordinate efforts to conduct security operations in the Malacca Strait. Extra-regional governments were limited to providing support through capacity-building programs that emphasized increasing regional security. This included funding for the construction of radar stations, implementing training programs, and adding additional patrol craft after the decline in piracy had already begun.

8. International Efforts in the Horn of Africa

The most visible of these efforts has been the establishment of maritime task forces by the United States and Europe, in addition to individual maritime efforts by other nations, such as China, Iran and India. CTF-151, EU NAVFOR and NATO counter-piracy operations have focused on deterring pirates and protecting ships. An example of their effort is the Internationally Recommended Transit Corridor, established by EU NAVFOR forces in the Gulf of Aden to protect ships. This is a path recommended by EU NAVFOR for mariners to transit the Gulf of Aden to provide security and minimize the chances that pirates can attack a vessel.

Behind the scenes, the IMO has played a key role in organizing the shipping industry through various initiatives that emphasized best practices and resolutions aimed at organizing the shipping industry. Efforts by shipmasters to deter piracy using anti-piracy measures while transiting through the HOA have been directly attributed to reducing the number of successful hijackings.[243] The UNSC has played a pivotal role in addressing the lack of security and governance by responding with resolutions 1816, 1838, 1846 and 1851, which authorized members of the United Nations to use force at sea and on land if necessary to fight piracy and armed robbery off the Somali coast.

The Contact Group on Piracy, established in January 2009, has begun to bring together countries, organizations and industries to find solutions to the piracy in the HOA.

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[243] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 23.

The response by the shipping industry and the private sector to piracy in the Gulf of Aden and the HOA has been mixed. In some instances, ships have altered their routes to avoid the waters of the HOA and Indian Ocean, rather than risk paying pirate ransoms.[244] Others have responded by using defensive measures that include increasing speed, using evasive maneuvers, electric fences, fire hoses and the hardening of interior spaces to attack. The payment of ransoms has become controversial because it fuels the demand for more attacks on ships. Ransom payments for an individual vessel have jumped from less than $50,000 five years ago to over $3M today."[245]

Private security companies have also played a small but growing role in combating piracy. Because the Gulf of Aden and the Indian Ocean at cover just over 2.5 million square miles, the area is too big for maritime forces to cover. They have provided defensive services to shipping companies that include the use of razor wire, attack dogs, and visual disruption devices, such as non-lethal lasers. The increased vulnerability of to attack has provoked debate within the shipping industry over the use of firearms by crewmembers and armed security teams. According to Cyrus Mody of the IMB, "providing security personnel can offer useful advice to ship captains," but questions regarding the use of force and the consequences for firing on pirates remains.[246]

D.   COMPARISON OF RESPONSES

The national response to piracy in Southeast Asia addressed several causal factors that have contributed to the rise in piracy. These include conflict and disorder, and underfunded law enforcement and security.

Conflict and disorder played a key role in the rise of piracy in Southeast Asia. Beginning in 2003, Indonesia began to strengthen economically and politically, which helped reduce the effects of conflict and disorder caused by the Asian financial crisis and

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[244] Ploch, "Piracy off the Horn of Africa," 20.

[245] International Maritime Organization Maritime Knowledge Center Current Awareness Bulletin, XXI, no. 7 (July 2009), http://www.imo.org/includes/blastDataOnly.asp/data_id%3D26112/CAB153July2009.pdf (accessed October 19, 2009).

[246] Associated Press, Private Security Firms Join Battle against Somali Pirates.

the failure of the Suharto government. As governance and security improved, so did its abilities to combat piracy and cooperate with its regional neighbors. Table 2 illustrates the decline in piracy for Indonesia that began in 2004 and shows that, by 2005, overall rates of piracy for the region also began to decline.

Improvements in law enforcement and security between the littoral states also helped reduce the incidents of piracy. Indonesia established command and control centers, increased funding for defense, and increased its presence in the strait through naval patrols, such as operation GURITA in 2005 and the adoption of the *eyes in the skies* initiative, which provided for airborne surveillance. Strengthening relationships between Indonesia and its neighbors maximized the impact of actions taken by each country. For example, Malaysia increased security in its waters by implementing an anti-piracy task force in 2000 and through the creation of the Malaysian Maritime Enforcement Agency in 2005. Singapore increased security in its waters by increasing patrols to deter pirates and by implementing escort procedures for high value targets. The collective impact on piracy was to reduce the effects of conflict and disorder, and increase security and stability in the straits to deter pirates from conducting attacks.

In contrast, the national response to piracy in the Horn of Africa has been limited and has had no discernable effect because of the daunting security and governance problems that the region faces. The epicenter of piracy is in Somalia, and is a direct result of failed governance and poor security. Other countries in the region, such as Yemen, Kenya, Djibouti and Tanzania, face similar political and economic barriers that have limited their abilities to deal with piracy effectively on an individual or collective basis. Despite these limitations, several governments have attempted to address causal factors, such as legal and jurisdictional weakness and underfunded law enforcement and security to combat piracy. This includes prosecuting suspected pirates, and building and or strengthening coastal patrol forces. For example, Yemen has taken steps to improve its security but has been limited by a lack of resources. Suspected pirates have been tried in Yemeni courts, but due to concerns about the quality of its legal system and its use of the death penalty for various crimes, few extra-regional states have been willing to deliver suspects to Yemen. This has limited the ability of maritime forces to provide a

deterrent for pirates to operate out of Yemen. The small size of Yemen's coast guard has also emboldened pirates because it is unable to patrol its side of the coastline within the Gulf of Aden, enabling pirates to receive logistical help. The Somali TFG has established a coast guard to patrol the waters off the coast of Somalia, but lacks patrol craft to execute its mission. Both Puntland and Somaliland have small, coastal patrol forces, but are limited in size. Lastly, Kenya and Tanzania have a small coastal patrol force, but due to limited numbers of vessels, patrols outside of their respective territorial waters are unlikely.

In Southeast Asia, bilateral responses were limited, but likely contributed to the overall decline in piracy by establishing working relationships that emphasized security measures and cooperation between the littoral states and extra-regional partners. An example is collaboration between Indonesia and Malaysia on anti-piracy patrols in the straits, which established frameworks for cooperation and communication. In 2005, Indonesia and Singapore launched operation SURPIC to monitor traffic in the Singapore Straits and to promote cooperation. Regional efforts included naval exercises that emphasized cooperation between Malaysia, Thailand, Indonesia, and India. Due to the limited nature of bilateral agreements between the littoral governments, the impact on piracy has been difficult to assess, but it is likely that their efforts helped reinforce cooperative mechanisms that would later become important when coordinating the regional response to piracy.

In the HOA, bilateral responses focused more on legal cooperation between maritime forces and individual governments, rather than collaboration between regional nations. This has resulted in international efforts that have focused solely on strengthening security at sea by providing legal MOUs for the detention and trial of suspected pirates caught by maritime forces. This has been facilitated by establishing MOUs between Kenya, the United States, and other coalition maritime forces in 2009. Similar legal agreements have been made between EU NAVFOR forces and regional authorities in Puntland. Recently, U.S. and NATO forces have embarked coast guard officers from Puntland to help identity pirates and the areas in which they operate.

Despite these efforts, bilateral actions so far have failed to deter pirates from attacking ships. In the first nine months of 2009, the total number of attacks in the HOA increased to 306, an increase of 13 from the previous year.[247]

Two types of regional responses were effective in reducing the number of pirate attacks in Southeast Asia. The first response included multilateral efforts that focused on maritime patrols. Coordinated air and sea patrols between the littoral governments helped reduce piracy by providing cooperation and information-sharing mechanisms that emphasized security through the presence of maritime forces to reduce the incidents of piracy. The increase in security altered the risk-to-reward ratio for pirates substantially, which reduced their incentives for attacking ships. The second regional response was the promotion of regional forums, such as ReCAAP, ASEAN and ARF, which promoted cooperation and communication between member nations. Though regional forums did not have a direct effect, they likely contributed to increased communication between regional nations, which kept security concerns current, including piracy, which likely supported the overall reduction of piracy.

In the HOA, the regional response has been limited to the Djibouti Code of Conduct, which is similar in concept to ReCAAP in Southeast Asia. It has begun to address some of the causes of piracy, such as underfunded law enforcement and a lack of security. Participating nations have agreed to several cooperative mechanisms, which include sharing and reporting information through national focal points and information centers. Since the organization is so new, it is too early to tell if these actions will have a substantial impact on piracy.

In Southeast Asia, the international response focused on improving security through capacity-building programs after piracy had begun to decline. The response was less pronounced because Indonesia and Malaysia were reluctant to accept intervention by outside forces, which might impinge on their sovereignty and their control of the straits.

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[247] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–December 31, 2008), 23.

Although many of the capacity-building programs have been aimed at combating terrorism, they had the overall effect of providing extra security, which likely contributed to the overall continued decline in piracy that Southeast Asia has been experiencing.

In contrast, actions to combat piracy in the HOA through maritime forces have been the most substantive part of the response to date. The international response has had to focus on addressing legal and jurisdictional weakness, and the failure of law enforcement and security at sea. As a result of their efforts, maritime forces have been credited with reducing the number of successful attacks on ships. In 2008, 42 vessels were hijacked, along with 833 crewmembers, off the coast of Somalia and the Gulf of Aden.[248] Since the arrival of maritime forces, such as CTF-151, EU NAVFOR, and NATO, that number has dropped to 32 vessels, with 533 crewmembers taken hostage.[249] These forces, together with anti-piracy measures adopted by shipping companies and private security organizations, show that actions taken are meeting with some success.

E.   CONCLUSION

The response to combating piracy in Southeast Asia was a multilayered effort that emphasized national and multilateral actions used to combat piracy effectively. As Indonesia strengthened its capabilities politically and economically, it was better able to combat piracy within in its own waters and cooperate with its neighbors, Malaysia and Singapore. National and multilateral efforts that addressed conflict and disorder, increased security, and legal and jurisdictional processes between the littoral states were the primary reason for the decline in piracy, with regional and international responses supporting the overall decline.

Piracy in the HOA is an outgrowth of the instability in Somalia and is a direct result of failed governance and security. Actions to combat piracy have been predominantly sea-based and international in nature. They have been aimed at deterring

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[248] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* United Kingdom, January 1–December 31, 2008), 26.

[249] ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships Annual Report* (United Kingdom, January 1–September 30, 2009), 23.

pirates and protecting merchant shipping, but have failed to reduce incidents of piracy. Least effective have been national and bilateral measures to combat piracy. Somalia and its neighbors lack the capabilities to combat piracy by themselves, and require international assistance if they are to be effective. Similarly, bilateral efforts, such as legal MOUs, have had little effect at deterring pirates, and have been used as a mechanism by maritime forces to reduce the burden of trying suspects in their respective countries. Shipping companies and maritime forces have played a central role by encouraging compliance with ISPS codes that strengthen shipboard security measures, such as using fire hoses, defensive maneuvers, and the hardening of interior spaces to attack. Until actions can be taken on land to contain the instability in Somalia, piracy will continue to be a problem.

F. LESSONS LEARNED AND RECOMMENDATIONS FOR COMBATING PIRACY IN THE HORN OF AFRICA

The aim of this research has been to analyze critically why the United States and other countries have been ineffectual in their efforts to stop maritime piracy in the HOA and Gulf of Aden region. This thesis began by asking what methods the United States and other maritime countries can use to combat piracy in the HOA most effectively under conditions of state failure. What has been learned is that national efforts that address the causes of piracy on land, such as conflict and disorder and the lack of security, have the best chance of combating piracy. In addition, multilateral efforts that emphasize cooperation and communication using air and sea patrols contribute by providing increased security, which deters pirates. In the HOA, responses have failed to address underlying causal factors that enable piracy, such as conflict and disorder, legal and jurisdictional weakness, and lax and underfunded law enforcement. Despite the best efforts of maritime forces, acts of piracy continue to increase. What is encouraging is that the number of successful attacks by pirates has begun to decline overall.

Piracy in the HOA continues to be a significant problem for the international community because it disrupts trade and limits freedom of the seas. Pirates operating among fishermen routinely swarm the Gulf of Aden and have extended their attacks via

mother ships into the Indian Ocean, Red Sea and the Arabian Peninsula, in search of vessels to hijack for ransom. The response has been predominantly international, and has utilized a sea-based approach that has been widely recognized as a temporary fix to a permanent problem.

What is known is that the solution to piracy will not come from maritime forces alone. The source of the problem lies in the lawlessness created by the failure of governance and security in Somalia. The poor economic, political and security situation that exists in the Horn of Africa provides little incentive for pirates to stop attacking ships. This, coupled with the lack of coastal security and the limited number of warships available to protect merchant ships, makes the risk-to-reward calculation favorable to pirates. In addition to Somalia, its neighbors, Kenya, Tanzania, Djibouti and Yemen, all suffer from some form of economic and political instability, which makes efforts at combating piracy from a regional perspective all the more difficult.

The preceding chapters have examined the rise and fall of piracy in Southeast Asia starting in the mid-1990s until the mid-decade of the new millennium and the current rise of piracy in the HOA, which began in 2005. Lessons about how nations in Southeast Asia combated the rise of piracy and what responses led to its decline may be helpful in addressing the current crisis in the HOA.

First, piracy needs to be tackled at its source; it requires a domestic solution. Indonesia had the greatest number of attacks in its waters and was responsible for the increase in rates of piracy between its neighbors, Malaysia and Singapore. The Asian financial crisis, which weakened the whole of Southeast Asia, was particularly devastating to Indonesia. It precipitated economic and political instability, which contributed to Indonesia's inability to control its territory. This led to increasing rates of poverty and corruption, which weakened security. This provided opportunities for villagers living along the coast to attack ships passing through the Malacca Strait and throughout the region. In addition, Indonesia and Malaysia were concerned that cooperative measures might compromise their claims to sovereignty. Both countries

viewed issues, such as smuggling and terrorism greater than piracy, which led to a lack of cooperation and communication. Improved conditions in Indonesia allowed better cooperation and security with Indonesia's neighbors, which helped to reduce piracy.

Somalia has been a failed state for almost two decades, which complicates any efforts to address the causes of piracy there. It is widely recognized that direct intervention in Somalia by extra-regional nations is unlikely to happen soon because there is no incentive to become involved. Lessons learned from previous humanitarian relief efforts in Somalia have made the United States and other nations reluctant to involve themselves in nation-building efforts, out of fear of becoming bogged down in a Somali civil war. This has limited the international response to a sea-based approach.

The implications of lessons learned indicate that piracy can be reduced without shore-based measures, but only at great cost. Piracy is unlikely to be eliminated until substantial progress is made in restoring governance and security on land. International measures that curb piracy should include stronger efforts to improve governance within the region that piracy exists.

Another approach that could be used includes providing funding for a regional coast guard or improving the capacity of regional navies to improve law enforcement and security. Yemen, Tanzania, Kenya and Djibouti all have small coast guards or navies, but none have effective capabilities. Capacity-building programs, provided by the United States or other extra-regional nations to increase the number of ships, personnel and training, could provide a sufficient deterrent factor that increases the risk-to-reward ratio for pirates.

Second, coordination and communication among regional nations is essential to reducing the number of pirate attacks. In Southeast Asia, multilateral naval and air patrols between Indonesia, Malaysia and Singapore provided an increased naval and air presence, which strengthened security and reduced the number of pirate attacks in the strait. Regional efforts in the Horn of Africa have been limited to membership in the

Djibouti code of conduct, which acknowledges piracy and emphasizes communication and cooperation, but does little else. Insufficient political will and the inability of regional governments to provide forces have made this method impracticable as well.

This analysis shows that a domestic solution is required in order to eliminate or seriously reduce piracy. Historically, the international response has focused on the symptoms of piracy, while failing to address the underlying causes that have allowed it to spin out of control. In the absence of conditions to improve economic and political considerations within Somalia and throughout the region, the temporary international naval response needs to become permanent. The question that needs to be asked is whether the United States, NATO, EU NAVFOR and other maritime nations can remain in substantial numbers in the HOA indefinitely. Increasing global commitments to the war on terror, waged by the United States and its allies, and the complexity of maintaining a significant naval presence, provides room for doubt. The global economic crisis has stressed the economies of many countries, a situation that could cause them to rethink their commitment to providing forces. In addition, operating in the HOA is a difficult task because of the environment and the distances involved. If the maritime presence was reduced or removed, it is highly likely that piracy would rage further out of control.

Even if foreign governments are able to foster a domestic solution to address only a few of the causal factors of piracy, it will likely take years before results will manifest themselves through better security at sea. Piracy has become entrenched in the communities that support it, and it will require measures that address the grievances of fishermen, which sparked the crisis of piracy in the first place. In the end, the last line of defense against piracy rests with ships and their crewmembers. Defensive measures that can evolve faster than the pirates' abilities to counter them may very well be the only response that can truly stop pirates from attacking ships.

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